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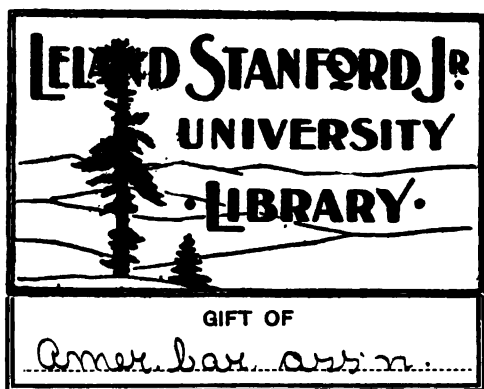
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S. S. Legrand

REPORT

THIRTY-FIFTH ANNUAL MEETING

American Bar Association

Held at

MILWAUKEE, WISCONSIN

At the 27, 28 and 29, 1912

Published by
The Bar Review Press

1912



SECRET

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OF THE

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УРАДНИ ОБОЗНАЧ

TRANSACTIONS
OF THE
THIRTY-FIFTH ANNUAL MEETING
OF THE
American Bar Association
HELD AT
MILWAUKEE, WISCONSIN

August 27, 28, and 29, 1912.

FIRST DAY.

Tuesday, August 27, 1912.

The Thirty-fifth Annual Meeting of the American Bar Association convened in Plankinton Hall of the Auditorium, Milwaukee, Wisconsin, on Tuesday, August 27, 1912, at 10 o'clock A. M., President Stephen S. Gregory, of Illinois, in the Chair.

The President:

The Association will be in order. A word of welcome will be spoken on behalf of the State of Wisconsin by Governor Francis E. McGovern.

Francis E. McGovern:

It is unnecessary for me to say on behalf of the people of Wisconsin that you are welcome. Not only do we greet you most heartily: we are proud that our state has been selected as the meeting place of a society so learned and distinguished. We feel honored by your presence here.

Coming, as I do, before Mr. Mallory, President of the Milwaukee Bar Association, who will appropriately welcome you, it seems superfluous for me to say anything. I am tempted indeed to imitate the example of the witty merchant, of Bokhara, who

was in the habit each morning of making a brief entertaining speech to all who came to hear him. One fine morning he mounted the stand in front of his bazaar as usual but began by asking the following question: "Brother Mussulmen, have you any idea whatever of the subject of my talk this morning?" The crowd answered "no." Whereupon he stepped down from his chair, saying there was no use discussing a matter or trying to unfold a subject to people who knew absolutely nothing about it. Very naturally this strange behavior excited comment; and the following morning at the usual hour there was an especially large crowd awaiting him. Taking his station as before he propounded the same question: "Brother Mussulmen, do you understand the subject of my address this morning?" Not to be caught again the people answered: "Yes, we do." "Then," said he, "there is no need for me to go on. It would be a waste of your time and mine to tell you about what we already know." And there was no address that morning. Curiosity now grew faster than before; and the third morning the people gathered in still larger numbers. This time they came prepared not to be tricked out of their customary morning entertainment. So when the merchant mounted to his place in front of the bazaar and again asked: "Brother Mussulmen, do you understand the subject of my address this morning?", they replied: "Some of us do and some do not." "Then," said the merchant, "let those who do explain it to those who do not. There is no need for me to speak." And without further parley, he left the stand and went about his work.

Between the Bokhara merchant and myself there is, however, this difference: he had a chance to talk to his fellow citizens every morning if he cared to do so; while to me an opportunity to welcome the American Bar Association is a very rare honor indeed, which I cannot afford lightly to pass by.

If I am to go on, however, it will be for but a short time and only to make a single practical suggestion. Professional associations are prone to fall into a state of "innocuous desuetude" and to permit their annual meetings to degenerate into mere social functions. This may be very agreeable but it is of course

not wholly satisfactory. It is a pleasure to me, in greeting you this morning, to be able to say that I understand this tendency has never affected the American Bar Association and I trust you will agree with me in the opinion that least of all should anything of the sort be permitted now. Your opportunities for doing good in a multitude of ways are at all times so fine and inviting, but especially so at present, that I am sure you feel the strongest incentives to make the great profession you represent a vital and powerful agency for the advancement, not only of judges and lawyers, but also of society as a whole.

In the few minutes allotted to me I wish, therefore, to say a word concerning the relation of the legal profession to the great problems of the day. Chief Justice Winslow has recently pointed out that for the first time in the history of America there now exists a widespread feeling of dissatisfaction with the administration of the law. This he traces to two causes: The tendency of the courts to lose sight of the merits of a case in their anxiety to enforce mere niceties and technicalities of procedure, thus subordinating justice to professional formalism; and judicial usurpation of legislative power so often manifested in some decision which holds a wise and humane law void by applying to it a narrow construction of constitutional provisions more than a generation or even more than a century old, and never intended to be used for any such purpose.

Can there be any doubt of the correctness of this diagnosis? I think not. Nor is there room for dispute that the disease is quite well advanced. It has now reached a stage where the people are awakening to the menace it imports to the cause of social and industrial progress. Soon they will be thoroughly aroused. When this point is reached they will very properly insist that no department of government shall be permitted to set itself above the popular will. They will not hesitate to say that the courts must not be allowed to remain a stumbling block in the pathway of human progress.

Already the disposition of free society—living, growing, and full of energy as it is, like a young giant just roused from sleep—from some of its cast iron legal restraints is manifest in more ways than one.

First, let me mention an increasing demand for constitutional change. Professor Gilmore, of our state university, recently collected the facts respecting this tendency in Wisconsin. He reports that during the first fifty years under the present constitution, eighteen amendments were adopted, several of which, however, related to the same subject; while in the last ten years, there have been adopted eleven amendments, relating to as many separate and distinct objects. During the first fifty years there were in all 101 amendments proposed, while last year 50 amendments were offered—one-half as many in a single year as in the former half-century. Four such amendments will be voted upon at the general election this fall, and eleven more will be submitted for popular approval two years hence, should the next legislature concur in the recommendations of the last one. Summing up the number of such amendments, he concludes that we have amended the constitution as frequently during the past ten years as we did during the preceding half-century. Recent amendments, moreover, are much broader and more fundamental in scope. Most significant of all, possibly, is the proposal now pending to amend the amending clause of the constitution so as to facilitate future changes in fundamental law. It goes without saying that the amending clause of the Federal Constitution should be overhauled in the same way.

Then there is the demand for the recall of judges, which has frightened so many good people. I am willing to concede that there is some danger here of impairing the independence of the judiciary; but not much. This government is the people's government in all of its departments. It has never been seriously impaired by being too representative. Indeed the independence of judges has sustained many more serious shocks from other quarters without arousing any protest whatever from the men who now say they fear the people are about to intimidate the courts. If adopted this plan may also work injustice and oppression in particular instances. But the principal objection to it is that it is likely to prove ineffective as a remedy for the evils it is intended to correct. Good or bad, however, it is quite certain to be applied unless these evils are otherwise abated.

There is also the proposed recall of judicial decisions. The object to be attained by this device is precisely the same as that of the other two. Its advantages over the customary method of amending the constitution is that it will avoid long and vexatious delays. Think what a recall of the decision in the Ives case would mean to the cause of labor and of industrial peace in the state of New York. Unlike the proposed recall of judges, it is not open to the objection that it will impair the independence of the bench, prove unfair to particular individuals or fail of effectiveness. Nor is it in any respect revolutionary in nature. It is in fact but a new application of an old, well settled method of judicial development. It proposes to make the constitution flexible and to adapt it to the needs of a rapidly growing civilization in much the same way the common law developed for centuries in England—by the decision of concrete cases one by one as they arose. And of course no one will question the right or the ability of the people to make and unmake constitutional law.

Understand me, gentlemen, I am not here to advocate any of these proposals. I merely call them to your attention in connection with the obvious fact that the courts were made for man, not man for the courts. Something must be done and these remedies have proved attractive to a large number of people. The issues thus raised are here. What are you going to do about them? What position will this Association take? What attitude will the lawyers of America assume toward the fundamental problems to which these specific remedies are addressed? I know very well what is the natural impulse of every member of this association when criticism, such as I have here suggested, is leveled at his profession and its work. It is to rally valiantly to the defence of the courts. But ignoring evils will never remedy them. If the Bar through professional bias will not see, the people can and will. A Bourbon policy will only make a bad matter worse. Let us not imitate the ostrich which thinks by burying her head in the sand to elude her pursuer.

It is a tradition of American politics that lawyers have a right to lead in public affairs. Such has been the practice from the

beginning. Lincoln's cabinet was composed of the leaders of the American bar. This privilege should not now be voluntarily surrendered. Let the lawyer in these later days look upon his work broadly. Let him study something more than law. Let him become familiar with the daily life of men who labor with their hands and so fit himself to interpret correctly the social and economic movements of the time. Instead of surrendering himself to the narrowing tendencies of daily practice, let him strive to make the jurisprudence of his country a vehicle for the advancement of the race; and whether upon the Bench or at the Bar he will thus accomplish his part toward solving the problems that confront him as an American citizen.

That the spirit of the legal profession is as high now as at any time was demonstrated during the last session of the Wisconsin legislature. The workmen's compensation act was up for passage. If enacted into law, it was perfectly clear it would seriously injure the business of every attorney in the state, reducing the income of some almost half. Nevertheless only two members of the Bar in all Wisconsin arrayed themselves against it and they did so clandestinely and half-heartedly. Scores of other attorneys enthusiastically championed it. It is safe to say that it will be many a year before business and commercial interests are likely to rise to the same plane of unselfishness and altruism.

But my mission here is neither to eulogize the profession of the law nor to criticize it; but on behalf of the people of Wisconsin to welcome the members of the American Bar Association to the metropolis of our state, to express the hope, entertained by all our citizens, that its deliberations may be pleasant and profitable, and to wish, when its sessions are over, all who have come from beyond our borders a safe and happy return to their homes.

The President:

Mr. Rollin B. Mallory, President of the Milwaukee Bar Association, will add a word of greeting.

Rollin B. Mallory, of Wisconsin:

Something like a year ago the suggestion was made to the Milwaukee Bar Association that it was within the realms of

possibility the American Bar Association might come here for its next convention. Our Executive Committee was instructed to obtain the convention by all honorable means—and it did so, not swerving for an instant from the paths of rectitude. His Excellency, the Governor, has intimated to you that more of the professional and less of the social be injected into your annual gatherings.

As the executive head of the Milwaukee Bar Association, I simply desire to say that I disagree with him in so far as our arrangements for your entertainment are concerned.

Only yesterday a committee of your Association and a like committee of our local Association held a joint meeting at which two forces were actively at work: One the centripetal, and the other the centrifugal. The former was advocated by the members of your committee in their zeal to enhance the literary and professional program, the latter by the members of our committee to carry out the program of its entertainment as well. Indeed, it reminded me of the old lady and gentleman who had lived together for nearly half a century in a state of anything but quietude, the difference between them being that the wife wanted tea for dinner and the husband coffee. Finally, after forty years of bickering and dispute, they “compromised” on tea. So in our meeting yesterday the local committee insisted upon holding the reception at the Deutscher Club at 8 o'clock this evening, and your committee insisted that 9.30 should be the hour. We “compromised” on 9.30.

I coincide with his Excellency, the Governor, who has preceded me, in everything he has said concerning your welcome here, and I do not know that I can add anything to his words of welcome. I simply desire to say that the official emblem of what we think a pretty city, a wholesome city, and almost a spotless town, is a disc with the words inscribed thereon “A Bright Spot.”

When you return to your homes and take up your daily duties we sincerely trust and hope the “Bright Spot” will be so deeply engraved upon your hearts that it will never be effaced.

The President:

Governor McGovern and Mr. Mallory: On behalf of the American Bar Association I express my profound appreciation of your cordial words of welcome. The great names of the Wisconsin Bench and Bar are not unknown beyond the confines of this beautiful state. Luther S. Dixon, Edward George Ryan, Matthew Hale Carpenter are stars in the brilliant galaxy of the American Bench and Bar; and your great men of business of whom the portrait of one of the most honored is on the wall of this room—John Plankinton—are not unknown to us.

We appreciate your welcome very heartily, and we appreciate particularly the efforts which you have so intelligently put forth for our comfort and entertainment.

The President then delivered the President's Address.

(See the Appendix, page 255.)

The Assistant Secretary read the names of candidates reported from the General Council for election to membership in the Association.

The candidates were duly elected members of the Association.

(See New Members marked (†) in State List, page 196.)

A recess of five minutes was then taken to enable the members from the various states to make nominations for members of the General Council.

After the recess members of the General Council were duly elected.

(See List of General Council, page 125.)

The Annual Report of the Secretary of the Association was read by him and was duly received and adopted.

(See the Report at End of Minutes, page 72.)

The Annual Report of the Treasurer of the Association was submitted by him and was referred to the Auditing Committee.

(See the Report at End of Minutes, page 74.)

The Reports of the Executive Committee were presented by the Secretary.

The Secretary:

There are two reports of the Executive Committee. I will first read the general report, and, after action has been taken thereon, I will in pursuance of the By-law merely state the substance and purport of the special report, inasmuch as that report has already been printed and sent out to all of the members of the Association. The general report is as follows:

(See the Report at End of Minutes, page 90.)

The general report of the Executive Committee was, on motion of Joseph R. Edson of the District of Columbia, seconded by M. A. Hurley of Wisconsin, received and its recommendations adopted.

The Secretary:

On August 12, 1912, a special report of the Executive Committee, concerning the status in the Association of William H. Lewis and Butler R. Wilson, of Massachusetts, and of William R. Morris, of Minnesota, was printed and sent out to all members of the Association.

It is unnecessary, therefore, to say more than that the report referred to three resolutions passed by the Executive Committee; one, of January 4, 1912, concerning the status of William H. Lewis, and the other two, of August 12, 1912, concerning the status respectively of Butler R. Wilson and William R. Morris, all three of those gentlemen being of the colored race. The report concludes as follows:

"The committee has not rejected any one of the three mentioned gentlemen for membership in the Association, or assumed to determine the desirability of electing to such membership a colored man otherwise qualified, but forasmuch as the settled practice of the Association has been to elect only white men to membership therein, the committee felt itself constrained to reserve the important question of electing colored men for determination by the Association itself, and to that end the committee has regarded it as a plain duty to rescind its earlier action. The status of the three above named persons as candidates for admission remains unimpaired.

"Having endeavored so to proceed as to leave the Association free to exercise its own plenary power, the committee now re-

ports the matter to the Association without recommendation in the premises, and, inasmuch as doubt has been expressed as to the right and jurisdiction of the committee to pass the resolution of January 4, 1912, and those of August 12, 1912, the question as to whether the committee had power to act therein, or to adopt such resolutions, is also hereby referred to the Association."

Such is the substance and purport of the special report of the Executive Committee printed and distributed to members on the 12th of August, and which is now submitted for that action which the Association may deem proper to take.

(See the Report at End of Minutes, page 93.)

The President:

The report is before the Association. I will ask Mr. Fraser, of Indiana, to take the Chair.

Daniel Fraser, of Indiana, assumed the Chair.

The Chairman:

What will you do with this report?

J. M. Dickinson, of Tennessee:

There is one thought which I am sure, is uppermost in the minds of all of us. Every true lover of the welfare of this Association hopes that the crisis which has been impending will pass by, leaving unimpaired an Association which has done so much for the usefulness and honor of the profession and for the good of the country and continue it in its full strength and in the amity and good will which hitherto have characterized it.

Without intending to engage in any discussion of its merits I am about to offer a resolution which I believe men of your intelligence can vote upon as well without discussion as with it. The individual members here will need no enlightenment to guide them in what they deem to be the right course. Discussion might do much harm; I am convinced that it can do no good, and therefore appeal in the interest of the Association to the members present, whatever their views may be, that they vote upon the resolution without a discussion of its merits. The resolution reads:

"WHEREAS, Three persons of the colored race were elected to membership in this Association without knowledge upon the

part of those electing them that they were of that race, and are now members of this Association.

“Resolved, That, as it has never been contemplated that members of the colored race should become members of this Association, the several local councils are directed that, if at any time any of them shall recommend a person of the colored race for membership, they shall accompany the recommendation with a statement of the fact that he is of such race.”

Nathan William MacChesney, of Illinois:

I rise to second the resolution presented by the distinguished gentleman from Tennessee. I do this in the spirit that has been expressed by him that we may so solve this difficult situation that we may not impair the usefulness of the American Bar Association, either to the country at large or to us as members of a great profession, or in any way affect the cordial personal and professional relations of the members of this Association. Now I wish to call attention to five things connected with this resolution. (1) That it recognizes that these men were elected. (2) That they were elected without knowledge by the Executive Committee that they were colored men. (3) That they are now in fact members of the Association. (4) It states as a matter of fact and of history that it has never been contemplated that colored men were to be members of this Association. That is a matter of fact and a matter of history to which all men, north and south, whether in favor of one action or the other, must agree. (5) That as this was by inadvertence and as it had not been in contemplation, that in the future the local councils shall state where persons of the colored race are proposed for membership that they are of that race.

You all know that Mr. Dickinson speaks for those men who hold the Southern view, although, perhaps, we want to recollect in considering this situation and in voting upon the matter that the race question is neither of the North or of the South, and I would remind some of the gentlemen from my own state that we have as serious a situation with reference to this question in Illinois as there is in any state of the South. So that we should not look upon it in any narrow, partisan or sectional spirit. The fact of the matter is that in my own state

within five years past the National Guard was called out more frequently to suppress race disturbances than it had been in the entire history of the commonwealth from 1818 down to five years ago. I simply call attention to the fact that some of the men of the North who have in private conversation opposed this resolution must recollect that it does represent the true spirit of the Association and solves the difficulty in a way that preserves its usefulness and at the same time gives full justice to the men whose status was questioned.

I trust, therefore, that the resolution will be carried without debate.

Francis F. Kane, of Pennsylvania:

But that is what the gentleman himself has been doing. He has been debating the question.

The Chairman:

Are you ready to vote?

George W. Wickersham, of New York:

It is due to this Association and to myself—because I am perhaps more responsible than any other person for bringing this subject before the Association—that I should state that in my opinion this resolution accomplishes that which I personally have been endeavoring to accomplish, namely, to recognize the status of three members of this Association which in my opinion could not be lawfully and legally disturbed by the action of the Executive Committee. Therefore I accept and shall vote for this resolution because I did not embark upon any wider campaign than that which finds its solution in the recognition of the continued membership of those men.

Burton Smith, of Georgia:

I think the members of the Association misunderstood my brilliant friend from Chicago when they laughed because he said that he was not discussing the question. I do not think he meant to discuss the question. He meant to discuss the general situation. There is a situation here that we all know, and it is an issue or problem which is not proper to be discussed

at this time and place. This is not a compromise, but it is a resolution upon which we can all meet without any waiving of rights or views or opinions or convictions.

I move the previous question.

John C. Richberg, of Illinois:

I second the motion for the previous question.

W. A. Ketcham, of Indiana:

I object. The call for the previous question cuts off debate, and this Association has never recognized it.

The question on the adoption of the resolution having been put was declared carried.

A. E. Pillsbury, of Massachusetts:

I raise the point of order that the Chair has not put the question on the motion which was made which was a call for the previous question, but instead thereof has put it on the resolution itself.

Francis F. Kane, of Pennsylvania:

Will the Chairman put the question again, so that we can vote on it understandingly.

Hiram Glass, of Texas:

I want to vote on the merits of the question, and that is what should be put before the house.

The Chairman:

I will put the question. All in favor of the resolution will say aye; all opposed, no. The resolution is carried.

A. E. Pillsbury, of Massachusetts:

A point of order. The previous question having been demanded the pending motion before the house was: Shall the previous question be ordered. The Chair has not put it to a vote, and on that motion I desire to be heard.

H. C. Hall, of Colorado:

The Chair has declared the resolution carried. Therefore I submit further debate is out of order.

George W. Bates, of Michigan:

Under the call for the previous question there can be no debate.

W. A. Ketcham, of Indiana:

I want to inquire if in this Association of American lawyers we have ever recognized the right to demand the previous question.

James O. Crosby, of Iowa:

Oh yes, we have.

W. A. Ketcham, of Indiana:

I say we never have. I claim that the previous question being out of order, the Chair called for a vote on the main question, which was the resolution offered by Mr. Dickinson.

Joseph B. David, of Illinois:

I want to be recorded as voting "no" on that resolution.

Ralph W. Breckenridge, of Nebraska:

I move that we adjourn.

Lynn Helm, of California:

I second the motion.

The Chairman:

The matter is a closed incident, and the question before us now is the motion to adjourn.

The motion was carried and the Association adjourned to 8 P. M. the same day.

EVENING SESSION.

August 27, 1912, 8 P. M.

The Association was called to order by the President.

Joseph B. David, of Illinois:

I have a resolution to offer and then wish to move its reference to the proper committee. It is as follows:

WHEREAS, Every person indicted for a criminal offence or against whom is filed an information charging the commission

of a crime should be entitled as matter of right to a copy of the accusation without cost and also the names and addresses of the witnesses on whose testimony the indictment was found or information filed and also to a list of the jury which may be called upon to try the accused; and,

WHEREAS, Section 1033 of the Revised Statutes of the United States provides:

“When any person is indicted of treason, a copy of the indictment and the list of the jury, and of the witnesses to be produced on the trial of the indictment, for proving the indictment, stating the place of abode of each juror and witness, shall be delivered to him at least three entire days before he is tried for the same. When any person is indicted of any other capital offence, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial.”

Now, therefore, be and it is hereby resolved by the American Bar Association that said Section 1033 ought to be amended by adding thereto the following:

When any person is indicted for any criminal offence or against whom has been filed an information charging a crime or misdemeanor, a copy of the indictment or information shall be furnished him without cost at the time of or before his arraignment or before he is called on to plead to such indictment or information, and the names and addresses of the witnesses appearing before the Grand Jury, in case of an indictment, shall be endorsed on the back of such indictment, and in case of an information the names of the witnesses so far as known to the District Attorney at the time of the filing of such information shall be endorsed on the back thereof. Every person charged with a criminal offence other than capital shall be furnished with a list of the jury and witnesses to be produced on the trial, so far as the same may be known to the District Attorney, at least one entire day before trial.

And be it further resolved, that a bill substantially embodying the foregoing amendments be presented to Congress by and through the proper committee of this Association at the earliest reasonable opportunity, and that such committee use all necessary and proper effort to secure the passage of such bill.

The President:

Under a standing rule, no motion is necessary. The resolution will accordingly be referred to the Committee on Judicial Administration and Remedial Procedure.

Charles Henry Butler, of New York:

On behalf of the Committee on Compensation for Industrial Accidents and their Prevention, which committee should properly report tomorrow, I ask permission to make a very brief statement tonight as it appears to be impossible, to my very sincere regret, for me to remain over tomorrow.

The President:

Your report may be received this evening.

Charles Henry Butler, of New York:

The committee has made a very brief report in which it states that it has, during the past year, met with the members of the similar committee of the Civic Federation and also those of the similar committee of the Commission on Uniform Laws, but it is not yet ready to report and recommend any exact form of law to the Association for action. Therefore, the committee simply reports progress and asks leave to make its further report at the next session of the Association. I should like to put it in the form of a motion, and also to request that the committee consist of six members instead of five, for the reason that, as the President will remember, there were six members named in the list, although the original resolution only called for five. The sixth member, Prof. Freund, of Chicago, has been rendering very valuable service to the committee and we all unite in asking that the committee be made to consist of six members in the future.

I move that the committee's report be received now; that the committee be continued to make its report at the next session of the Association, and that it consist of six members instead of five.

Oscar R. Hundley, of Alabama:

I second the motion.

The President:

The Constitution and By-laws provide that the President shall appoint the committees. I do not know, therefore, whether it is competent to continue its personnel, but as the committee is a

special committee it can be continued, and the question of its constitution can be taken up by my successor.

Charles Henry Butler, of New York:

If the number, then, could be increased to six without mentioning their names.

The President:

Very well. All in favor of the motion, that the Committee on Compensation for Industrial Accidents and their Prevention be fixed at six in number, and that the committee report with recommendations at the next session of the Association, will signify the same by saying aye; those opposed, no. The motion prevails.

Charles Henry Butler, of New York:

I ask that the motion just adopted, be made, so to speak, *nunc pro tunc* as of the last meeting, and that the choice of Prof. Freund be ratified so that he may be made a member of the committee.

The President:

I hardly think it necessary. Prof. Freund is, I think, a member of the committee.

(*See the Report in the Appendix, page 567.*)

George Whitelock, of Maryland:

I should like to present the report of the Committee on the Bills Concerning the Courts of Admiralty. One of the three bills became a law by the signature of President Taft in June, 1910. The other two relate respectively to the right to recover damages for death by negligence at sea, and the right to sue the United States for damages caused by collisions with national vessels.

We had a hearing before the Judiciary Committee of the House of Representatives on August 6, 1912, particularly on the death statute. We were unable to get a report at the present session of Congress owing to the plethora of business. We ask in our printed report, that the special committee be continued with

directions to pursue the policy heretofore adopted by the Association of endeavoring to get these bills enacted into law.

That is the whole report of the committee and I move its adoption.

James O. Crosby, of Iowa:

I second the motion.

The motion was put and carried.

(See the Report in the Appendix, page 572.)

The reports of the Committees on Jurisprudence and Law Reform and on Judicial Administration and Remedial Procedure were called for but were not presented, the Chairmen being absent at the moment.

Henry Wade Rogers, of Connecticut:

The Committee on Legal Education and Admission to the Bar asks permission to file its report without reading. No action is intended upon it at this time. The committee prefers that it lie over for consideration a year from now. That course is necessary because the report has not been printed, and it seems hardly worth while to read it.

There being no objection, it was so ordered.

Francis B. James, of Ohio:

The Committee on Commercial Law has reported on two subjects and made two recommendations. Its report has been printed and filed.

The first subject reported upon is bankruptcy. The recommendation is that the bill pending for the repeal of the bankruptcy law should be opposed and defeated; that it is unwise at the present time to suggest any amendment. The second subject is federal legislation regulating bills of lading in interstate and foreign commerce. The committee reports that there were two measures pending before Congress on that subject: one known as the Bankers' Bill, and the other known as the Uniform State Bill. The committee, in its report of July 15, expresses a preference for the Uniform State Bill as a federal bill for the regulation of bills of lading in interstate and for-

eign commerce. Since that report was made, on August 21, the Senate by unanimous vote passed the bill reported and known as the Uniform State Bill with a very slight amendment in Section 44. That section is the criminal section, and, as introduced in the Senate, it contained no provision in reference to the forgery of bills of lading. The bill as passed is, therefore, identical with that appended to our report, with the exception of the addition of four or five lines which add the crime of forgery to the other criminal offences contained in the bill. The committee recommends that the Association express a preference for this bill, and, in anticipation of its indorsement by this Association the Senate has already expressed its preference by unanimous vote. For the purpose of completing the record the committee submits a short supplementary report embodying the precise language of the amendment to Section 44 covering forgery.

The report was received and approved.

(See the Report in the Appendix, page 437.)

James O. Crosby, of Iowa:

The Chairman of the Committee on International Law is not present. The report of the committee has been filed and distributed. It does not propose action by the Association but simply conveys information with regard to the intercourse by treaty between different nations since our last meeting.

The President:

The report will be received and filed.

(See the Report in the Appendix, page 455.)

The report of the Committee on Grievances was called for but not presented, no member of the committee being present.

The report of the Committee on Obituaries was read by George Whitelock, of Maryland, Chairman of the committee, the members of the Association standing during the reading.

The report was received and filed.

(See the Report in the Appendix, page 465.)

Sigmund Zeisler, of Illinois:

The Committee on Law Reporting and Digesting makes four recommendations or suggestions. It renews and reemphasizes the desirability and importance of uniformity in the arrangement and classification of the statutory law of the several states; that is to say, an arrangement of the statutes of the different states on the same general subject under uniform titles, so that the same subject matter may be found under the same general heading in future compilations or revisions of the statutes. Secondly, the committee suggests the desirability of a digest in which the statutes of the different states on important subjects of general interest would be grouped together, and which would give brief references to the decisions of the courts in interpreting these statutes. The third suggestion is that the key number series of the American Digest would be made much more useful and time-saving if the same divisions of sections and sub-sections as are found in the Decennial Digest were retained. There are now many instances in which a section covers an entire page or more without any sub-division or sub-section. Under the plan suggested a person could tell at a glance whether any case on a point searched for is digested in the particular volume of the key number series. Fourthly, we suggest that each section of the Digest which refers to an important topic give a search note with careful references to digests which do not follow the same classification, and also to encyclopedias, annotated reports and valuable articles in the law magazines.

The report was received and its recommendations were concurred in.

(See the Report in the Appendix, page 469.)

Ralph W. Breckenridge, of Nebraska:

The Committee on Insurance Law has twice reported that the insurance laws of the District of Columbia are the worst in the United States, and that they furnish no adequate protection to policy-holders against the numerous illegitimate and wild-cat schemes that flourish there, and thrive upon the credulity of the

people who want insurance and want it cheap, and do not know how to tell the difference between a sound company and a fraudulent one.

After mature consideration and conference with the Commissioners for the District of Columbia, the head of the Insurance Department of the District, and others, it has been decided to recommend a plan pursuant to which an insurance code for the District shall be prepared by a commission to be appointed by the President, or under the direction of the appropriate Congressional committee, and then presented to Congress for enactment. Such a code could be safely depended upon to provide adequate insurance laws for the District, and would serve as a model law for adoption in the several states, with a fair prospect of acceptance by the various legislatures, after having passed the scrutiny of those interested in the betterment of the present deplorable insurance conditions. The recommendation of the committee is:

"That they be again instructed to urge upon Congress the enactment of the bill endorsed at the Detroit session of the Association, or its equivalent, and that they be authorized to co-operate with the Senate and House Committees on the District of Columbia, to secure the preparation of an insurance code for the District, with a view to its ultimate adoption in the several states."

The recommendation of the committee was adopted.

(*See the Report in the Appendix, page 487.*)

Walter George Smith, of Pennsylvania:

The report of the Committee on Uniform State Laws presents the results of the work of the Conference of Commissioners on Uniform State Laws for the approval of the Association in accordance with the custom of past years. It recommends the approval of an Act relating to and regulating Marriage and Marriage Licenses; an Act to promote uniformity of Child Labor Laws, and an Act recommending to the various states which have not already done so to adopt a Pure Food Law.

I offer a resolution in relation to the Marriage Act, as follows:

"*Resolved*, That the American Bar Association approve of the act prepared by the Conference of Commissioners on Uni-

form State Laws entitled, An Act Relating to and Regulating Marriage and Marriage Licenses, and to promote uniformity between the states in reference thereto."

This act provides that each state shall decide upon the qualifications of those who may perform the marriage ceremony. It provides that while forms of ceremony may differ, there must be two competent witnesses to every lawful marriage. It provides that no marriage shall take place until a license has been issued, and that the license must be taken out five days before the ceremony. It provides that all common law marriages shall be hereafter abolished and not recognized.

As to the most essential feature of the act the Conference is of the opinion that the tendency of the best modern thought is to do away entirely with common law marriages. Some thirteen states have already done so.

I regret to say that the Committee on Uniform State Laws was not unanimous in approving this recommendation of the Conference. Mr. Frederick G. Bromberg, of Alabama, took strenuous ground against it. In his minority report, signed by him alone, he contends that there was no evidence before the Commission to show that the tendency of the best thought is to approve the abolition of common law marriages. You will understand that when we speak of the tendency of the best thought, we are using general terms. We had in mind certain modern text writers on the subject of marriage and divorce, especially Prof. Howard, of the University of Nebraska, and other authorities; but our own conviction is that it is wise to take this step, and to recommend to all of the states that common law marriages be no longer recognized.

I remind members of what I was called upon to say at the meeting in Boston. We are assembled here with very brief time for consideration, and it really is not possible to take up a long act and consider it section by section. When this Association gives its endorsement, as it has done heretofore to all the acts laid before the Association by the Conference of Commissioners on Uniform State Laws, that action is based upon the confidence of the Association in the conclusions of the members

of the Conference, and the carefulness with which their work is done, as well as upon the supervision exercised by the Association's own Committee on Uniform State Laws; otherwise it would be impossible to get intelligent approval by this Association of any one of these acts. You may believe that your approval is given intelligently when I state that the act has been carefully considered and examined by your committee, and your committee, I may say, contains representative members from each state. Candor compels me to add that in almost every instance the representative of the state in your committee is one of the Commissioners from that state who is accredited to the Conference. To that extent my statement may perhaps be somewhat weakened, but it is impossible for the Association to act upon this measure in any other way than it has acted upon the five commercial acts, which have received so large acceptance by the different states, as shown in the report of the Committee on Commercial Law just presented wherein it is stated that the Bills of Lading Act, prepared by the Conference and approved by this Association, has just been adopted by the Senate.

The resolution relating to marriage and marriage licenses, and presented by Walter George Smith, was adopted.

Walter George Smith, of Pennsylvania:

I now offer the following resolution and move its adoption:

"Resolved, That the American Bar Association approves of the draft of an Act entitled, An Act to Regulate the Employment of Children and to make uniform the laws relating thereto, prepared and recommended by the Conference of Commissioners on Uniform State Laws."

Almost all of the states have acts upon this subject. It was thought wise by the Conference that a special committee should consider all of these acts and then take the best features and prepare a model act which might meet with acceptance in all of the states. Accordingly a special committee was appointed, of which Mr. Hollis R. Bailey, of Massachusetts, was Chairman, and after very deliberate and careful work that committee has put forth this Child Labor Act, which has been printed and sent out to all the members of the Association.

It would take too much time to give you even an outline of all of its provisions. Briefly it may be stated that it provides that no child under the age of fourteen years shall be employed in certain special work which is enumerated; that it shall be unlawful to employ persons under sixteen years of age in certain special work; that the employment of children during the months when public schools are in session shall be regulated; that the granting of certificates for children to work who are alleged to be of an age when they should work, shall be regulated, and if you examine the act with care you will find that it is as complete a code upon this subject as in the present knowledge of the problem could be prepared.

One criticism made by a keen lawyer and a good sportsman commended itself to me, and will commend itself to all gentlemen in the Association who indulge in the royal game of golf. The act forbids the employment of any child under the age of fourteen years in certain enumerated occupations including clubs. My correspondent calls attention to the fact that this section would prevent in many instances the employment of boys as caddies, which he thought extremely unwise. I drew the attention of the Chairman of the committee to the criticism, and he thought it was well founded. Therefore, when members of the Association present this act to their respective legislatures, they will see to it that it is amended so as to permit caddies to go on giving pleasure to golf enthusiasts.

The resolution offered by Walter George Smith concerning the employment of children was adopted.

Walter George Smith, of Pennsylvania:

The tendency in all of the states in their pure food and drug regulations has been to follow the Federal Pure Food and Drug Act. It is obvious that if there is one statute governing that subject in a state and another act for interstate commerce under the federal law, it is bound to work hardship and confusion. Therefore the Conference of Commissioners on Uniform State Laws has expressed its view that the states should take the Federal Pure Food and Drug Act, and, wherever that act requires amendment, endeavor to have it amended by Congress before

anything is done in the states. The resolution that I offer on this subject is as follows:

"Resolved, That the American Bar Association approves of the conclusions of the Conference of Commissioners on Uniform State Laws, and recommends that all of the states re-enact legislation embodying the provisions of the Federal Pure Food and Drug Act of 1906."

The resolution was carried. -

Walter George Smith, of Pennsylvania:

I offer one other resolution as follows:

"Resolved, That these acts which have just been approved, together with the other acts heretofore approved by this Association, be recommended for adoption by all of the states that have not yet adopted them."

The resolution was carried.

(See the Report in the Appendix, page 489.)

The President:

The next committee to report is that of the Committee on Taxation. The Chairman of that committee is not present, but its report has been filed. Unless some member of the committee has something to suggest in respect of the report, it will be received.

(See the Report in the Appendix, page 549.)

Simeon E. Baldwin, of Connecticut:

The Comparative Law Bureau has printed its report and it is in the hands of those present. The salient feature is that the number of copies of the Bulletin of Comparative Law has risen this year to 8000 of which only about 130 remain undistributed. It is desirable to retain a few for future sales. The reason why the edition has been so largely increased is that several State Bar Associations have become members of the Bureau, paying a small annual charge and receiving in return a sufficient number of copies of the Bulletin to supply such of their members as are not already members of the American Bar Association. I take this opportunity, to ask members present who are officers of

State Bar Associations to consider whether it would not be desirable to have all State Bar Associations supplied with these bulletins, and thus enable the information contained to be more widely distributed than it is now, and so spread abroad knowledge of what is being done in the direction of legislation all over the world.

I move that the report be received and filed.

The motion was carried.

(See the Report in the Appendix, page 555.)

Adjourned to Wednesday, August 28, at 10 A. M.

SECOND DAY.

Wednesday, August 28, 1912, 10 A. M.

The President called the Association to order.

The Assistant Secretary read the names of candidates reported from the General Council for election to membership in the Association.

The candidates were duly elected members of the Association.

(See New Members marked (†) in State List, page 196.)

The President:

The speaker this morning is a distinguished lawyer who stands in the front rank of the American Bar and is justly entitled by his professional achievements to that distinction. He earned my friendship and regard years ago in a place where one learns to know men best—the court room, when he and I were opposed in a long and bitter litigation in which candor compels me to admit that I was not entirely successful.

I take great pleasure in presenting to you Frank B. Kellogg, of Minnesota, who will deliver the Annual Address upon the inspiring theme “New Nationalism.”

The Annual Address was then delivered by Frank B. Kellogg, of Minnesota.

(See the Address in the Appendix, page 341.)

Rome G. Brown, of Minnesota:

Before proceeding to the regular order I would like the floor for a moment. I received this morning a telegram from William

R. Morris, of Minnesota, a member of this Association of nearly one year's standing. The telegram reads:

"I am informed of proceedings of the American Bar Association ratifying my membership in the Association. I now most respectfully tender my unqualified resignation, because of my sincere, respectful and entirely unselfish consideration of the best interests of the leading organization of lawyers in the land. My action is intended as that of a lawyer towards lawyers, for whose success and progress in their work of advancement I most earnestly and sincerely pray. Please present to the Association at the earliest possible moment."

In behalf of William R. Morris, of Minnesota, I present his resignation as a member of this Association; and, in his behalf, sincerely, earnestly and without reservation, I urge its acceptance.

Joseph Hansell Merrill, of Georgia:

I rise to move the acceptance of the resignation just read by the adoption of the following resolution:

"Resolved, That the American Bar Association accepts the resignation of William R. Morris, as a member of this Association; and, in doing so, highly commends his dignified appreciation of the conditions as manifested by his telegram of resignation."

Edmund J. James, of Illinois:

I second the motion.

Joseph Hansell Merrill, of Georgia:

I wish to say one word in addition, and I speak to those who with me do not wish to have negroes as members of this Association. I bespeak from you a cordiality and heartiness in your vote on the latter part of this resolution. It becomes us in bidding Mr. Morris good-bye to voice our appreciation of the exalted sentiments expressed by him in his farewell to us.

Rome G. Brown, of Minnesota:

Upon the resolution which has been offered and the adoption of which has been seconded, I move the previous question.

Ralph W. Breckenridge, of Nebraska:

I second that motion.

The President:

You have heard the resolution on which the previous question has been moved and seconded. Therefore, the question is: Shall the main question be now put? All in favor will signify the same by saying aye; those opposed, no. It is unanimously carried.

The question now recurs upon the resolution offered by Mr. Merrill. All in favor of the adoption of that resolution will signify it by saying aye; those opposed no. The resolution is adopted.

If Mr. Peter W. Meldrim, of Georgia, is in the hall, I will ask him to present the report of the Committee on Jurisprudence and Law Reform.

Peter W. Meldrim, of Georgia:

The Committee on Jurisprudence and Law Reform has not printed its report for this reason: One of the resolutions referred to the committee required it to ascertain and report upon the law on a given subject in every one of the states of the Union, and not until yesterday did the committee receive the last information. Hence, it was impossible to print the report.

Three matters were referred to the committee. The first was substantially dealt with last year. It provided for the consideration of what is known as the "Third Degree." The present resolution referred to the committee the question as to how far we should recommend a law condemning the so-called "Third Degree." The language of the resolution is important in this, that a person charged with crime need not say anything if he desires to keep silent, but whatever he does say shall be taken down in writing and may be given in evidence against him on the trial; that whatever the prisoner shall say, thus taken down, shall be read over to him by the Justice or Magistrate and signed by the Justice or Magistrate, or else the statements therein contained shall not be admitted in evidence. In a word, it is the statement of an accused which on the criminal side of the court is a confession. The question submitted is whether or not these statements if reduced to writing should be admitted

in evidence, and, if not reduced to writing and if not signed, whether the confession should be admissible.

The committee reaches the conclusion, first, that the law regarding the admissibility of confessions is well settled, and that no confession is admissible unless it is freely and voluntarily made without the slightest hope of reward or the remotest fear of punishment, and, therefore, that it is better to leave that well-settled principle of law alone. Second, that while the evil complained of is to be reprehended, yet it is local in its character, dealing with the peculiar circumstances and surroundings of local police and prosecuting officers. The evil being local the committee is of opinion that it should be remedied by local legislation and not dealt with by this Association.

The second matter submitted to the committee is of very considerable interest. The committee was instructed to consider and report, whether some efficient agency cannot be inaugurated under the auspices of the Association, to promote the scientific and expert supervision of the formulation of laws in the United States, to the end that the number may be decreased and the quality improved; or whether a special committee should be appointed to consider and act on this subject.

The resolution deals with slipshod legislation, and from the very inception of this Association that question has been constantly coming before us. We all recognize the evil, but the committee is unable to suggest any agency that will be uniform throughout the several states by which the evil can be prevented. All that we can do is to say that under the auspices of the Association a commission is now in existence formed of commissioners from every state, all the territories, the District of Columbia and the Insular possessions of the United States. It may be interesting to know that these commissioners under legislative acts or under gubernatorial appointment, represent all the states of the American Union. For the last five days that body has been in session. Many of the bills recommended by the Conference have been enacted into law in the past; notably the Negotiable Instruments Act, which has been adopted in forty states. The commission is steadily at work, and the

present committee of this Association can suggest no better way of getting intelligent and uniform legislation than to hold up the hands of the commission, which is the child of this Association and is doing your work in that way.

The third matter submitted to the committee is the subject of the detention of innocent witnesses. There has grown up, it seems, an evil by detaining innocent witnesses. The resolution required that the committee should ascertain the law in every state in the Union, and with that end in view letters were addressed to the members of the general council in the respective states. Responses have been received in many cases giving the statutes of the states, and those answers will be turned over to the Secretary. The Committee on Publicity may use them for general information if it sees fit to do so. It is found that in 39 states innocent witnesses may be detained. The committee finds that the origin of the law for the detention of innocent witnesses springs from two statutes in the reign of Philip and Mary, whereby a magistrate was required in the case of felony to bind over a witness to appear on the trial. The committee finds that this common law practice prevails in all of the states in the Union except in so far as it has been modified by statute. Therefore, in substantially every state in the Union an innocent witness may be held to appear to testify on the trial of a case.

The committee is asked to recommend the passage of a law that will prevent the detention of a witness under any circumstances. In other words, that a witness shall not be held either under bond or in other way to appear and testify in a criminal case. Inasmuch as it may well happen and does happen, that there may be only one witness to a homicide. The witness declares he has no interest in the matter, is going away and is not coming back, the serious question arises: Shall that witness be allowed to depart and not be compelled to enter into a recognizance for his appearance? The committee has been constrained to reach the conclusion that we had better adhere to the principles of the common law as established in the reign of Philip and Mary and supported by the law of practically all of the states, notwithstanding the fact that there may be some

occasional hardship. In nearly all of the states the conditions necessary to be complied with on the part of the prosecution reduce the evil complained of to an infinitesimal quantity. It is in furtherance of justice to detain a witness, due regard being had to his personal comfort and compensation being given to him for his loss of time. It is not wise to permit a witness to depart from the state and defeat the ends of justice.

One other matter. The Secretary has asked me to call attention to this fact: You will find in the report of last session a slight error. There had been referred to the Committee on Jurisprudence and Law Reform the matter of the increase of the salaries of the federal judges. The matter was referred to a special committee. There is a letter from the Chairman of that special committee here, which the Assistant Secretary will read; and I only call attention to it because it is cognate to the work upon which we have been engaged.

I respectfully submit the report of the committee.

The President:

It contains no recommendations?

Peter W. Meldrim, of Georgia:

It contains no recommendations. On the contrary, we have not been free to make the recommendations sought for the reasons stated.

The President:

The report, then, will take the usual course and be received.

(*See the Report in the Appendix, page 429.*)

Thomas Mackenzie, of Maryland:

I should like to move to consider those subjects separately, and, if in order, I move the adoption of the resolution in respect to the "Third Degree," which resolution was introduced two years ago. The report made upon it at that time was that the resolution was too drastic, and I then withdrew—

Joseph B. David, of Illinois:

I rise to a point of order, that unless the resolution is approved by the committee it is not open to debate.

The President:

That is true as a matter of parliamentary business, but it has been customary when the report of a committee is brought in to permit discussion upon the report.

Joseph B. David, of Illinois:

For what purpose? We cannot pass a resolution here on the subject as the matter stands.

The President:

I know, but that is the rule. The gentleman from Maryland may continue.

Thomas Mackenzie, of Maryland:

I withdrew the resolution for the purpose of reframing it with the hope of getting from the Association an expression of sentiment upon a question which is of importance in this country, quite as important, I think, as any that the Association can pass upon; a question involving not only the matter of personal liberty but of personal rights as well. It seems to me that it is quite evident this country is losing its characteristic love of liberty and individual freedom and is getting to be a nation of spies. Not only have the authorities undertaken to institute what is known as the "Third Degree" under which a man before he has been actually charged with crime is subjected to all sorts of indignities and investigations and is practically made a witness against himself, but today they have put in use a new instrument, the dictaphone. The people of this country have always had the greatest contempt for eavesdroppers and spies, yet so insistent has the demand become for the conviction of wrongdoers that we are losing sight of individual liberty and are subjecting men to the use of dictaphones and all sorts of instruments for the purpose of getting statements they may make as evidence to be used against them—

The President:

The Chair would ask the gentleman if it is his purpose to make a motion.

Thomas Mackenzie, of Maryland:

I want to have that subject recommitted to the committee. I hardly think it is fair to me that the report which is not a printed report should be passed on in this way. I move that the matter be recommitted to the committee in order that it may be reported upon regularly.

The President:

Is the motion seconded?

F. M. Porter, of California:

I second the motion.

The motion was carried.

The report of the Committee on Judicial Administration and Remedial Procedure was then submitted by Henry D. Estabrook, of New York, Chairman of the committee, who moved that the report be received and its recommendations be adopted.

Amasa M. Eaton, of Rhode Island:

It gives me pleasure to second the motion. The subject of court procedure and the reformation of legal procedure should be in the hands of the courts. This subject has been before the Commissioners on Uniform State Laws. The great difficulty has been that to accomplish anything in this subject, concurrent action by the Congress of the United States and by the legislatures of the various states was required, and this seems to be the first step towards securing such concurrent action.

Ernest T. Florance, of Louisiana:

I suppose the system of procedure in the State of Louisiana would be affected—I may say fundamentally changed—by the adoption of this resolution. Nevertheless, I do not believe for myself, coming from that state, that we would wish to obstruct a change which would unify the practice of law throughout the United States. It is a broader question than is the question of the effect of the law upon a local system. For that reason—although in almost every particular, I think, it will work a change in the federal practice in Louisiana on the law side of the court—I heartily second the resolution.

The President:

All who are in favor of the motion that has been made will signify the same by saying aye; opposed, no. It is carried.

The Assistant Secretary then read, by direction of the President, the following communication:

New York, August 24, 1912.

Hon. George Whitelock, Sec'y American Bar Association, Hotel Pfister, Milwaukee, Wis.

DEAR MR. WHITELOCK: My engagements will keep me from attending the session of our Association. Will you do me the favor to present the following resolution and ask its adoption:

"WHEREAS, President Taft in his address to this Association in Boston last year expressed his approval of its action in respect of an increase of the salaries of our federal judges and that he would be willing to make the matter the subject of a special message to Congress,

"Resolved, That he is requested by this Association to send his special message to Congress at its next session accordingly embodying his recommendations."

President Taft has communicated with me about this. Owing to the short time since the announcement of the special committee recently appointed by the President of our Association I have not been able to confer with my associates on this committee but shall do so at once if the Association adopts this resolution. President Taft's position is still one of entire willingness to do whatever he can to help.

Kindly submit the proposed resolution beforehand to any members of our committee who may be present for their approval.

Will you oblige me by obtaining and sending to me the names and addresses of all Presidents of State Bar Associations as far as possible, and ask the aid of all members of our Association in this. Your committee proposes to make this fight nationwide, right from the shoulder, and to keep it up until we win.

With best wishes for a very successful convention, I am,

Very sincerely yours,

(Signed) EDWARD A. SUMNER,

*Chairman of the Committee on Increase
of Salaries of Federal Judges.*

Israel Cowen, of Illinois:

I move the adoption of the resolution submitted by Mr. Sumner in his communication.

E. T. Lee, of Illinois:

I second the motion.

James O. Crosby, of Iowa:

I am opposed to it. It seems to me that the President of the United States ought to have sufficient influence with the Congress of the United States without calling upon this Association to assist him to work his message through Congress.

The President:

Are you ready for the question?

W. A. Ketcham, of Indiana:

I am also opposed to this resolution. I am opposed to a committee having had a duty imposed upon it that does not meet, that does not consider, that does not even come here to father its own resolution, but simply sends a letter in which it asks us to instruct the President of the United States in regard to his duties. I think the President of the United States may be permitted to perform his duties without the approval or the endorsement of the American Bar Association. I think the Congress of the United States may be permitted to inquire as to what it ought to do in order to do justice to a very high and distinguished body of men. I am not in favor of these lawyers who practice before these judges attempting to commit this great Association to an increase of the judges' salaries. I think the President of the United States and Congress can consider those questions and settle them. I do not believe that we ought to be occupying the position of asking the President of the United States and Congress to do something for the courts of which we are officers. I do not believe it is consistent with the dignity of the Bench or the dignity of the Bar to have these matters coming before us, and I hope this Association will not undertake to do those things. We have got too many things that

we ought to do. Therefore, I trust that the resolution will not pass. It is smuggled in here, it does not come before us properly, and, therefore, I move to lay it on the table.

James O. Crosby, of Iowa:

I will second that motion.

The President:

I wish to make a statement in exoneration of Mr. Sumner, the Chairman of the committee. The record of our proceedings was a little obscure to me, and I did not understand that it was my duty to appoint a special committee until it was called to my attention by Mr. Meldrim through the Secretary's office and that comparatively recently. That is the reason why the committee did not get together and make a report; I am responsible for the delay and no blame should be placed on the committee.

Amasa M. Eaton, of Rhode Island:

In view of the explanation of the President, I suggest that it would be much wiser to recommit this matter.

The President:

Discussion cannot be permitted on a motion to lay on the table.

Joseph B. David, of Illinois:

I think something ought to be said on the other side of the question, and I move that an opportunity to discuss it be given.

The President:

The motion is not in order.

Joseph B. David, of Illinois:

I ask unanimous consent. I want to say something in defence of the lawyers who practice before these judges.

The President:

You will have an opportunity to do that, but not now. Parliamentary rules must be adhered to, and the question before the house is on the motion made by the gentleman from Indiana to lay this report and the resolution contained in it on the table.

The motion to lay on the table was lost.

Amasa M. Eaton, of Rhode Island:

I move that this matter be recommitted to the special committee.

M. A. Hurley, of Wisconsin:

I second the motion.

Joseph B. David, of Illinois:

I move as a substitute that the resolution be adopted.

Amasa M. Eaton, of Rhode Island:

I submit that the substitute is out of order; it is not in accordance with our rules to consider a resolution submitted by a committee whose report is not in print.

The President:

I think that rule only applies to the reports of standing committees. Be that as it may, I wish the gentleman would permit Mr. David to be heard for a moment.

Amasa M. Eaton, of Rhode Island:

Very well, sir, I yield the floor.

Joseph B. David, of Illinois:

There is no reason why this Association should not recognize the fact that the judges of the federal courts are under-paid, and I see no reason why a lawyer who practices before those judges should not in this presence recognize the fact and urge any committee and this Association as a whole to do something, so that the highest class of men in our profession might aspire to become judges of the federal courts. It is pretty nearly time that we recognize that in order to get good judges we ought to give them adequate salaries, and this Association ought at this time as one man to declare that it is in favor of Congress and the President of the United States seeing to it that the federal judges are properly compensated.

Therefore, I move as a substitute for the pending motion that the resolution be adopted.

The President:

The Chair is inclined to think, and so rules, that the resolution is not permissible under the Constitution and By-laws, and that the motion to recommit to the committee is the only question before us. All in favor of recommitting will manifest it by saying aye; all who are opposed by saying no.

The matter was recommitted.

John T. Richards, of Illinois:

When I received notice of my appointment as Chairman of the Special Committee on Government Liens on Real Estate, I was at a loss to understand what the duties of the committee were. Looking back through the reports of the Association for several years I was unable to find that any report had been made by the committee, and it required a great deal of investigation upon my part to determine what its duties were. I found, however, after considerable expenditure of time, that the duty of the committee was to report upon Section 3186 of the Revised Statutes of the United States, being a section of the Revenue Laws. Under that section the property of the delinquent, whether real or personal, is subjected to a lien in favor of the Government. In other words, as soon as the assessment roll is delivered into the hands of the Revenue Collector the lien attaches under Section 3186 to all property whether real or personal in favor of the Government. Upon further investigation I found that in the case of *United States vs. Snyder*, 149 U. S., it had been held that this lien was effective even against an innocent purchaser for value without notice. In that particular case, which went up from the State of Louisiana, the tax had been of many years standing. The property against which the lien was enforced had been purchased for full value and was held by an innocent purchaser without notice. Notwithstanding that situation the Supreme Court held that the property was subject to the payment of the tax. The court in Louisiana had held the other way, asserting that the recording acts of Louisiana applied to the Government lien and that there being no notice of any kind of record as required by the statutes of the state the lien would not attach as against an innocent purchaser.

The committee, after finding out what its duties were, took up the matter with the minority leader of the House of Representatives, Hon. James R. Mann, who referred the matter to the Judiciary Committee. Mr. Sterling, of that committee, requested your committee to draft an amendment to the section such as the committee might approve. An amendment was drafted and forwarded to Washington, introduced in the House of Representatives and referred to the Judiciary Committee of the House, and Mr. Sterling wrote me that he would endeavor to secure the passage of the amendment at the present session. I am not advised whether he has been successful or not.

In the printed report you will find a copy of the bill as introduced by the Judiciary Committee of the House.

The committee recommends that at least one member of this committee be continued in office by the incoming President, on account of the fact that it is important that the subject should not be lost sight of. The Attorney-General in a recent decision has held that Section 3186 also applies to the excise tax law levying a tax upon corporations and that the lien under that section extends also to any unpaid tax growing out of this recent excise tax corporation law.

That is the only recommendation that the committee has made, and that for the purpose of keeping the subject alive and endeavoring to secure the passage of a proper amendment.

The committee recommends the passage of the bill as introduced.

Walter A. Knight, of Ohio:

I move the adoption of the recommendation made by the committee.

John E. Green, of North Dakota:

I second the motion.

The motion prevailed.

(See the Report in the Appendix, page 569.)

The Association adjourned until 8 P. M., the same day.

EVENING SESSION.

Wednesday, August 28, 1912, 8 P. M.

The President called the Association to order.

Simeon E. Baldwin, of Connecticut, made the following announcement:

It so happens that the American Bar Association this year opened its meeting on Monday with two sectional meetings, which was the very day on which the Institute of International Law convened in Christiania, Norway. The Bureau of Comparative Law forwarded this cablegram to the Institute of International Law under date of August 27:

“INSTITUTE INTERNATIONAL LAW,
CHRISTIANIA, NORWAY.

“The Comparative Law Bureau of American Bar Association, opening annual session today, sends cordial greetings.”

The following reply has just been received:

“*To the Committee Comparative Law Bureau, Milwaukee, Wisconsin.*

“The Institute of International Law addresses its thanks and cordial salutations to the Bureau of Comparative Law of the American Bar Association.”

The President:

The regular order is an address upon the subject of “The Courts and the Constitution,” by Hon. George Sutherland, United States Senator from Utah. Senator Sutherland is one of the most accomplished constitutional lawyers in the Senate, and it is a matter of special gratification that he has been able to come here for this purpose. I take great pleasure in presenting him to you.

The Address of the Honorable George Sutherland was then delivered.

(See the Appendix, page 371.)

The President:

The next order of business is the report of the Committee to Suggest Remedies and Formulate Laws to Prevent Delay and Unnecessary Cost in Litigation.

J. G. Slonecker, of Kansas:

In the absence of the Chairman I have been requested to present the report for the committee.

The committee has no new suggestions to make. At the instance of the Association four bills previously recommended by this Association were presented to Congress for passage, and all four of them have been favorably reported by the Judiciary Committee of each House. Two of the measures have been passed by the Senate and one has been passed by the House, but neither has been passed as yet by both Houses.

In view of the favorable consideration which has been given to these bills by the Judiciary Committee of the House, the report contains a resolution which I will read as follows:

“Resolved, That the Special Committee to Suggest Remedies and Formulate Laws to Prevent Delay and Unnecessary Cost in Litigation be continued with the powers heretofore conferred upon it, and that it be instructed to take such steps as it shall deem expedient to secure the passage by the Congress of the United States of the bills heretofore recommended by this Association as the same have been recommended by the Judiciary Committees of the respective Houses of Congress.”

I might say that the Judiciary Committee of the Senate made a few slight amendments in one of the bills, or perhaps in both, which in the opinion of the committee of the Association do not in any way interfere with their efficiency. I move the reception of the report, and the adoption of the resolution as read.

Rome G. Brown, of Minnesota:

I second the motion.

Alfred B. Cruikshank, of New York:

It seems to me that the three bills appearing in Schedules A, B and C annexed to the report go too far in the direction of securing judicial finality at the expense of judicial accuracy. They aim a severe blow at the present method of securing fairness in jury trials, when they provide, as they do, in substance that hereafter errors in pleading, in misdirection of the jury

and in the admission of evidence shall be considered harmless in jury trials unless the complaining party can make it affirmatively appear that the error complained of has caused him prejudice. Heretofore the courts have held that harmless errors should be disregarded on review, whether by appeal or writ of error; but they have considered that no error was harmless which was substantial and tended to mislead a jury. This rule of the courts was not a technical one imposed on them from without, but was a substantial one derived from the experience of the judges as trial lawyers and as *nisi prius* judges. Not finality, but accuracy and justice should be the aim first sought. Every trial lawyer, yes, every litigant knows the care necessary in supervising jury trials if justice is to be obtained; how much importance is attached by the jury to the rulings of the court in receiving or rejecting evidence and the ease with which gross errors will creep into a verdict if the jury be misled by the reception of improper evidence and their minds diverted to side issues.

The courts, I say, have always disregarded harmless errors. It is now proposed to legalize harmful errors in jury cases, and to compel the Appellate Courts against their will, to affirm erroneous judgments, all in the interest of this rough and ready, automobile celerity, which to some minds, now and always, is the all desirable thing.

The committee's bill, adopted in substance by the Senate, provides that:

"No judgment shall be set aside or reversed, or new trial granted, by any court of the United States in any case, civil or criminal, on the ground of misdirection of the jury or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless in the opinion of the court to which application is made, after an examination of the entire cause, it shall appear that the error complained of *has injuriously* affected the substantial rights of the parties."

Note that here it declares that it must appear, affirmatively of course, that the error complained of has injuriously affected the substantial rights of the parties, otherwise there is no redress.

It is not enough that an error has been committed or a number of errors committed, the judgment must stand because the unfortunate victim cannot demonstrate what the verdict of the jury might have been had the case been properly tried.

Let us consider for a moment the sound rule which it is proposed to set aside. If you will look at the U. S. Digest you will find three principal cases in the Supreme Court where the rule is laid down which it is sought to have repealed. They are *Deery vs. Cray*, 5 Wallace, 795; *Vicksburg R. R. vs. O'Brien*, 119 U. S. 99; and *Mexia vs. Oliver*, 148 U. S. 664.

In *Deery vs. Cray* an important deed was erroneously refused. The court said:

"It is claimed that if we shall find this deed to be valid, we must affirm the judgment, although we may find error in the previous ruling of the court; upon the ground that this conveyance shows that plaintiff has not title to the land, and that therefore such error is without prejudice to her rights. We concede that it is a sound principle that no judgment should be reversed in a court of error when the error complained of works no injury to the party against whom the ruling was made. But whenever the application of this rule is sought, it must appear so clear as to be beyond doubt that the error did not and could not have prejudiced the party's rights. In the case before us this is not so clear. The plaintiff, by reason of the error of the court, had never been permitted to introduce the first step in the proof of her case. She had no interest in offering to show anything which might avoid the force of the deed read by the defendants. If she could have proved it a forgery it would have done her no good in this suit, because she had failed under the erroneous ruling of the court to make out a *prima facie* case for herself. We cannot assume here that she might not have successfully avoided the effect of that deed if the court had given her a standing in the case which would have made it avail her to do so."

In the *O'Brien* case a physician's certificate was erroneously admitted in evidence. The court said:

"We are unable to say that the defendant was not injuriously affected by the reading of the physician's certificate in evidence. It is not easy to determine what weight was given it by the jury. . . . While this court will not disturb a judgment for an error that did not operate to the substantial injury of the party against whom it was committed, it is well settled that a reversal will be

directed unless it appears, beyond doubt, that the error complained of did not and could not have prejudiced the rights of the party."

In the Mexia case a defective power of attorney was improperly admitted and the language of the court in reversing the judgment was similar to that already quoted.

Now if this so-called reform means anything, it means that these and similar cases were wrongly decided; that improper evidence may be ignorantly or imprudently put before juries with all the weight of judicial sanction and unjust verdicts be rendered thereon, all so that we may have speed at all cost in the courts.

I predict that such a so-called reform will serve to increase litigation by encouraging adventurous lawyers and litigants to try their chances in the courts.

Will some one tell me just how many errors are to be crowded into a trial before the victim of an unjust verdict can get a rehearing under this proposed legislation? The bill proposes no limit in that direction. The record may be sprinkled with erroneous rulings and yet the erroneous verdict based thereon must be affirmed because the appellant cannot possibly demonstrate the effect of any one of these on the secret deliberations of the jury.

The number of second trials compared with the number of cases disposed of in court is comparatively few, perhaps only one to a hundred, and yet to reduce this small number a little more it is proposed to introduce into our courts this great evil of unfair jury trials.

It will not do to reply that the courts will still see that substantial justice is done and will grant new trials in proper cases. They are doing that now. They have always been doing so. They have considered that substantial justice requires that a new trial be granted in jury cases where the party has not had a fair trial. Now they are to have a legislative mandate to cease that good work. And yet, most important of all, the right of a litigant in a jury case is his right to a fair trial. The bill proposes to deprive a party of that right in the interest of speed.

Consider what is proposed. A party is brought to court to meet his adversary's case as disclosed in a written pleading. The whole matter is to be disposed of in the course of a few hours. On the Bench is a weak, inexperienced or partial judge, or one who happens totally to misunderstand the case. The pleading may be misleading; evidence may be improperly received against his objection; the trial judge may erroneously charge the jury, and a verdict is rendered against the party thus abused. The jury hear the party object in vain; his objections are one by one overruled; they are led to ignore or misconceive some of the real issues; they are prejudiced against the party because of his objections to the court's rulings; an unjust verdict is the result, but how can that be shown? The case comes up for review, the Appellate Court is powerless to remedy the injustice in the face of this statute. It will not do to deny that this will be its effect if enforced. It can have no other. The tendency of this new law will be gradually to bring about just this result in an increasing number of instances. It will tend to carelessness on the part of trial judges; to the over-riding of inexperienced and honest counsel by abler and less scrupulous trial lawyers. That class of lawyers who are willing to take a chance of misleading courts and juries, of introducing improper evidence, of securing improper instructions will rejoice and thrive. In the end it will promote litigation and appeals instead of decreasing either.

The whole theory and aim of the bill is wrong. The object of this Association should be to make the practice of the law more scientific, not less so. The ascertainment of truth in matters of controversy is not an easy or superficial task; it is a difficult one. Here we have seriously proposed that a result may be correct while every process used to obtain it is erroneous. Such a proposition is a manifest absurdity. Let us speed litigation, but let it be by proper and appropriate methods; by improving the character and quality of our lawyers, of our juries, and of our judges; by simplifying procedure; by increase in the number of judges; by increasing their salaries, so as to get abler men. Let us hurry the case to trial and speed the appeal; but

never hurry or shirk the actual trial thereof, nor by indirect methods cut off the review, as proposed here.

I move as an amendment these words at the end of the resolution:

“Provided, however, that the several bills relating to Procedure in United States Courts be amended so as to provide that new trials may be granted for error where it appears that the same either has or may have injuriously affected the substantial rights of the parties.”

T. H. Reynolds, of Missouri:

I will second the amendment for the purpose of getting it before the house.

W. A. Ketcham, of Indiana:

If it is proper to suggest an amendment to the amendment, I would move to strike out of the amendment, the words “either” and “may have.”

Samuel Parker, of Indiana:

I will second that suggestion.

Robert G. Street, of Texas:

This whole matter has been acted upon by the Association at former meetings and fully debated, and these bills have been recommended. Not only so, but the amendment of the gentleman from New York has been offered by him before and voted down. Now I raise the point that the amendment to the amendment and the amendment itself are not in order. Let us proceed with due regard to parliamentary procedure.

The President:

Inasmuch as these are rather revolutionary times, the Chair is inclined to overrule the point of order. I think the Association can take up the matter *de novo* if it desires to do so.

We will first vote on the amendment to the amendment, offered by General Ketcham. All in favor of General Ketcham's amendment will say aye; opposed, no.

It was lost.

The question now recurs on the amendment offered by the gentleman from New York,

John M. Olin, of Wisconsin:

May I say that we have in Wisconsin almost identically the law that is proposed in these bills. In fact, we have had substantially that law since 1858, and I think it has been on the statute book in New York State, if I am correctly informed, in the code.

Alfred B. Cruikshank, of New York:

The gentleman is mistaken.

W. A. Ketcham, of Indiana:

It is so in Indiana.

John M. Olin, of Wisconsin:

Well, these dire results predicted by the gentleman from New York have never come true in Wisconsin.

J. G. Slonecker, of Kansas:

We have in Kansas this provision almost word for word, and I have never yet heard a lawyer complain that it prevented his getting his case reversed if the circumstances of his case justified it. If gentlemen do not have this act before them they might misunderstand it, and I want to read what it says:

“No judgment shall be set aside or reversed or new trial granted by any court of the United States in any case, civil or criminal, on the ground of misdirection of the jury or improper admission of evidence or improper rejection of evidence or for error as to any matter of pleading or procedure, unless in the opinion of the court to which application is made after an examination of the entire cause, it shall appear that the error complained of has injuriously affected the substantial rights of the parties.”

I think that ought to be the law.

Frederick N. Judson, of Missouri:

It seems to me that this is a very serious matter. These bills were prepared, as I understand, after investigation by a special committee of the Association, and they were carefully considered as measures in the direction of meeting the general dissatisfaction with the administration of justice. The bills were carefully

considered by the committee; were considered by the Association and approved by the Association; were presented to Congress, and, as I understand, have been considered by the Judiciary Committees and have passed at least one branch of Congress.

Now it seems to me if we adopt an amendment of this kind, it would be generally construed as the taking by this Association of a distinctly backward step. I think we should understand what we are doing before we adopt it.

Burton Smith, of Georgia:

I wish to endorse what the gentleman from Missouri has stated, and to add this word. If after careful deliberation we reach one conclusion then let us request Congress to accept it. Indeed, Congress has partially done so.

Ralph W. Breckenridge, of Nebraska:

I wish to inform the Association that this very measure has received the endorsement of the Committee on Reform in Legal Procedure of the National Civic Federation, and the work before the committees of Congress has the approval of the National Civic Federation. I would add further, that this bill has had a great deal of consideration by that committee of the Federation in conference with the committees of this Association. Inasmuch as this bill recites a rule which is already the law in a number of the states, if we recede at all from the proposition that is stated in the bill, we will advertise ourselves to the country as a body of men who cannot stick to an opinion two years.

Robert G. Street, of Texas:

Six states of the union have adopted the resolution read by a representative of the committee upon the recommendation of this Association, and the State of California has adopted it, I understand, by a constitutional amendment.

Oscar A. Trippett, of California:

We have had such a statute on the books in California for a great many years. The court disregarded it and said that it was unconstitutional, and the people amended the constitution. I

want to say to you now that the courts in California disregard rules of evidence and disregard the law in the trial of cases. There are scenes in the court houses like the scenes at the hustings. Now I believe that all cases ought to be tried according to law. If we are going to be governed by law and not by men, let us be governed by law, and when a judge disregards the law in instructing a jury, or in admitting evidence, or in excluding evidence, a verdict obtained under such circumstances ought to be set aside.

Alfred B. Cruikshank, of New York:

In answer to the statement that has been made here that this Association has committed itself to this bill, that is no answer. I have presented arguments here which have not been met—
(The speaker was interrupted by calls for the question.)

The amendment offered by Mr. Cruikshank was lost.

The President:

The question is now on the adoption of the resolution offered by the Chairman of the committee.

L. J. Nash, of Wisconsin:

Will the Chair state what we vote for if we vote in favor of that resolution?

The President:

The resolution is that the committee be continued with the powers heretofore conferred upon it and instructed to take such steps as it shall deem expedient to procure the passage at the next session of Congress of the bills heretofore recommended by this Association as the same have been amended.

Frederick N. Judson, of Missouri:

I would inquire of the Chair if any vote is necessary. Is not this report simply a report of progress which the committee has made, and is not all that is necessary simply to receive the report?

The President:

The Chair thinks a vote is necessary on the resolution.

The resolution was carried.

(See the Report in the Appendix, page 557.)

The President:

The next business in order is the report of the Committee to Oppose the Judicial Recall.

Albert W. Biggs, of Tennessee:

The committee as appointed in August, 1911, consists of one member from each state, but a sub-committee or executive committee was appointed consisting of six members of which Mr. Kellogg, of Minnesota, is Chairman. The full committee met on the 26th of this month, and the report has been printed, but has not been distributed.

I shall not undertake to read the report, but I desire to state briefly the work done by the committee. The committee undertook to enlist the aid of the member of the committee in each state to oppose in such way as might be thought best the recall of judges. To that end the committee distributed not only to members of the committee, but generally, as I understand it, to members of this Association the various addresses and pamphlets upon the subject which have been issued during the year. In those states where the question is now a burning issue—that is, in those states where constitutional amendments are pending upon the subject of the recall of judges, or where legislation to that effect has been proposed, notably in Arizona, Colorado, Nevada, North Dakota and Arkansas—the committee has been especially active.

The report recognizes that there has been delay in the administration of justice. It also recognizes that in some instances courts have been too technical, and, while it recognizes that it is only technically that a man is entitled to a trial at all, yet it is believed that the unrest as to the administration of the law has been due not to any defects in the character of the judges, or to any want of ability upon their part, or for any other reason personal to the judge, but in most instances because of defects largely in procedure. This Association and other bar associations are taking steps to remedy these defects, and the committee believes that the recall of judges, or of judicial decisions, is unnecessary to stop the unrest which now prevails as to the

administration of the law. The report undertakes to state what would be the effect of the recall of judges and of judicial decisions, but as both of those questions have been put so ably before you and dealt with by a distinguished Senator of the United States in his address tonight, I deem it entirely unnecessary to read to you any portion of the report further than to say that we believe that the committee should be continued and that this Association should lend its aid to its endeavor to stop any further growth of the idea of either recalling judges or judicial decisions.

I therefore present the report and with it I offer the following resolution:

“Resolved, That the report of the committee be received and filed and the committee be continued with the same powers and duties as conferred by the resolution of August 31, 1911, under which it was appointed, and that the President be authorized to fill any vacancies in the committee.”

I move the adoption of this resolution.

Frank B. Kellogg, of Minnesota:

I second the motion.

The President:

I am not certain, but I am rather of the opinion that these committees as to their personnel expire with each administration.

Albert W. Biggs, of Tennessee:

The resolution only says that the committee be continued. Of course the President is authorized to name a new committee. Perhaps it would be well for me to change the wording of the resolution so that it will read that the President be authorized to name a new committee.

The President:

Let it read simply that the committee be continued.

Walter A. Knight, of Ohio:

It seems to me quite important if this report has been printed that we should each have a copy of it. I would like to know if printed copies are here?

The President:

Yes, sir; printed copies are here and ready for distribution.

Frank B. Kellogg, of Minnesota:

I will state that we could not get a meeting of the committee until Monday, and the report was printed Monday afternoon and Tuesday, and 300 copies have been filed with the Secretary.

The resolution was carried.

(See the Report in the Appendix, page 574.)

The President:

Next in order is the report of the Committee on Publicity, of which Mr. Boston is Chairman.

Charles A. Boston, of New York:

If my memory serves me right, it is said that in St. Paul's Cathedral there is an epitaph of Sir Christopher Wren in Latin which when translated reads: "If you seek his monument, look around you."

The report of the Committee on Publicity is best indicated by the attention which the local newspapers have given to producing accurate news of the activities of the Association in its deliberations here. I feel that I can assure you that the same accuracy which has been manifested in the local newspapers is shown throughout the United States and that the same interest, though not the same amount of space, has been given throughout the country generally to the activities of this gathering. The reason for that lies in the systematic way in which the Committee on Publicity went about securing in advance the co-operation of the newspapers of this country to an extent which has never hitherto been secured. Never heretofore, so far as I am advised, has there been a Committee on Publicity charged with the duty of enlisting actively the co-operation of the newspapers of the country. For the first time in our history so far as I know this has been done systematically. A printed report, which I shall not undertake to read to you, was prepared in advance of this meeting, and it indicates in a way what we had done to accomplish that systematic activity on the part of the press. We sent

out 1500 copies or more of every speech in advance and of the report of every committee, with proper release notices indicating when the same should be published. You will find upon investigation that every newspaper in the country connected with a press association, and every other newspaper which applied in advance for the information, was supplied with it by mail under such circumstances that it could be carefully edited and properly set up to be released at the proper time.

This committee being a special committee and having operated in this way, has merely to suggest in behalf of its successor that if there are any recommendations or any criticisms, or if any one feels that he can aid the permanent Committee on Publicity, which I understand is to become a standing committee of this Association, I know that the new committee will welcome all such suggestions and endeavor to profit by them.

In behalf of the special committee, I suppose it is proper to ask that it be now discharged.

Francis F. Kane, of Pennsylvania:

I want to call attention to something the Chairman has not referred to. Among the other very valuable suggestions which he made at the beginning was the thought that each committee should give a brief abstract of its report as well as the report itself to the Secretary, in order that the newspapers might get an abstract which they could handle, and in order that the really important matters in the report might find their way into the columns of the newspapers. That required the co-operation of the committees. I believe that the work of briefing the reports of the committees was done in this case by the Chairman himself. I think hereafter it would not be unfair for the Association to ask that it be done by the Chairmen of the respective committees. They could do it in a way that the Committee on Publicity could not, because they would be familiar with their reports. In that manner they would lighten the labors of the Committee on Publicity.

The report was received and special committee was discharged.

(See the Report in the Appendix, page 590.)

The President:

I will ask Mr. Parkinson if he is ready to report for the Committee on Patent, Trade-Mark and Copyright Law?

Robert H. Parkinson, of Illinois:

The report has been printed and distributed. In substance it is a recital of what has been done by the committee towards the advancement of the bill to create a court of patent appeals, a measure supported by this Association, and it recommends further efforts in the same direction.

It is quite sufficient for me now to move, that the report be received and the committee continued—subject, of course, to such change in its personnel as will come in the ordinary course of appointment.

James R. Caton, of Virginia:

I second the motion.

The motion was carried.

(See the Report in the Appendix, page 472.)

Lessing Rosenthal, of Illinois:

I have a short resolution that I would like to present:

"Resolved, By the members of the American Bar Association in annual meeting assembled that the address of Senator Sutherland on Constitutional Government constitutes so forceful, logical and convincing an argument and so sound and lucid an exposition of our theory of government that in view of the problems now confronting the people the same be forthwith printed and an adequate number of copies immediately sent to the members of the Association, and otherwise widely distributed."

W. A. Ketcham, of Indiana:

I second the adoption of that resolution.

The resolution was carried.

James Hamilton Lewis, of Illinois, offered a resolution upon the matter of the creation and removal of United States judges and the abolition of life tenure of office, which resolution was, without reading, referred to the Committee on Jurisprudence and Law Reform.

Adjourned to Thursday, August 29, 1912, at 10 A. M.

THIRD DAY.

Thursday, August 29, 1912, 10 A. M.

The President called the Association to order.

The Assistant Secretary read the names of candidates reported from the General Council for election to membership in the Association.

The candidates were duly elected as members of the Association.

(See New Members marked (†) in State List, page 196.)

Joseph B. David, of Illinois:

I rise for the purpose of having corrected, an error inadvertently committed in yesterday's proceedings. The resolution in regard to the increase of the salaries of federal judges was recommitted with instructions to the committee to report next year. In the resolution it was suggested that President Taft should at that time bring the matter to the attention of Congress. As there is a well-founded and reasonable doubt as to whether or not President Taft will be in office and thus enabled to comply with this resolution, I move that where the words "President Taft" appear in this resolution there be inserted the words "The President of the United States."

The President:

Is there any objection to the substitution proposed? The Chair hearing none the Secretary is directed to make the suggested correction in the wording of the resolution.

The program this morning embraces a discussion on the "American Judicial System" as to the judges, the lawyers, and the procedure. I take great pleasure in presenting as the first speaker a distinguished member of the New York Bar and an eloquent advocate—a man on whom, through his long residence among us of the West, we of the West feel we have some claim—Mr. Henry D. Estabrook.

A paper entitled "The Judges" was then read by Henry D. Estabrook, of New York.

(See the Appendix, page 339.)

The President:

The judges having received attention at the hands of Mr. Estabrook in his exceedingly interesting and able paper, the next speaker will address himself to the lawyers. I take pleasure in presenting a scholarly lawyer, one of the leaders of the Bar of Maryland, Mr. Joseph C. France.

A paper entitled "The Lawyers" was then read by Joseph C. France, of Maryland.

(See the Appendix, page 411.)

The President:

I am sure we all appreciate very much the scholarly paper of Mr. France. The discussion will be continued with special reference to the subject of procedure by Mr. Frederick N. Judson, of Missouri, a well-known leader of the Western Bar, an accomplished and experienced lawyer.

A paper entitled "The Procedure" was then read by Frederick N. Judson, of Missouri.

(See the Appendix, page 418.)

The President:

The next order of business is a report from the General Council on the Nomination of Officers of the Association.

William P. Bynum, of North Carolina:

I am instructed by the General Council to report to the Association the following nominations for officers for the ensuing year: For President, Frank B. Kellogg, of Minnesota; for Secretary, George Whitelock, of Maryland; for Treasurer, Frederick E. Wadhams, of New York.

Members of Executive Committee: Hollis R. Bailey, of Massachusetts; Aldis B. Browne, of the District of Columbia; William H. Burges, of Texas; John H. Voorhees, of South Dakota; William H. Staake, of Pennsylvania.

List of nominations for Vice-Presidents and members of the local councils was then read by the Assistant Secretary.

(See List of Officers, page 127.)

The President:

The report will be received and its recommendations will be acted upon in regular order.

As there seems to be some doubt whether special committees shall be continued without notice in each case, it will be ordered, if there is no objection, that all special committees unless otherwise directed by the Association are continued. The Chair hearing no objection it is so ordered.

The President:

I believe there is no formal report from the Special Committee on Increase of Membership. The efficiency of the work of the committee can be judged when I state that the total addition to the membership of the Association this year is in the neighborhood of 1100.

James W. Vandervort, of West Virginia:

I have a resolution that I desire to offer. It refers to miscellaneous business.

It reads as follows:

"In view of the merit of the papers read and their bearing on current events, I move that the addresses of Stephen S. Gregory and Frank B. Kellogg be published in pamphlet form and distributed to members of this Association and otherwise, as the Executive Committee deem best."

I would add that since I wrote this resolution I have heard the address delivered last evening by Senator Sutherland. I think it should also be incorporated in my motion.

These three addresses would constitute a triumvirate, each bearing upon the other, and all treating of the agitation in this country today. It is very important that they should be published together and distributed.

Robert G. Street, of Texas:

I would amend the resolution by adding that the three addresses to which we have listened this morning be included.

James W. Vandervort, of West Virginia:

I accept the suggestion.

Robert G. Street, of Texas:

If the resolution reads in that way, I will second it.

The President:

The Chair is somewhat in doubt as to the propriety of the resolution because one of our By-laws provides that no resolution complimentary to a member of the Association shall be entertained. However, Senator Sutherland is not a member of the Association. Then, too, we have a publication committee to which is committed the matter of publishing whatever takes place in our meetings. I have no doubt that the committee would respect any expression by the Association, but I think it would be quite respectful if this resolution were referred to the Committee on Publication for favorable consideration. I am inclined to think that is the better course to pursue.

Ralph W. Breckenridge, of Nebraska:

I make that motion.

Albert W. Biggs, of Tennessee:

At the last meeting of the Association, in Boston, because of the lateness at which the proceedings are published it was ordered that the three papers delivered should be immediately sent out for distribution. We should only be following the precedent there set by ordering the immediate publication of the addresses made at this meeting.

It would not be infringing upon the prerogatives of the Committee on Publication for the Association to instruct that committee to print and distribute at once the papers embraced or referred to in the resolution.

I move as an amendment that the Committee on Publication be requested by the Association to publish these papers.

Ralph W. Breckenridge, of Nebraska:

My motion was to refer the matter to the committee with such request.

Albert W. Biggs, of Tennessee.

That is satisfactory.

The President:

The resolution offered by Mr. Vandervort, amended so as to include the addresses heard this morning, is that the papers be referred to the Committee on Publication with the request that they order their immediate publication and distribution.

The motion was carried.

Charles A. Boston, of New York.

I have a resolution relating to the institution of a Standing Committee upon Professional Ethics. I ask that it be referred to the Executive Committee.

The President:

The resolution is received, and will be referred as requested.

Harry S. Mecartney, of Illinois:

I have a very brief resolution that I present for the consideration of the Association. It reads as follows:

"Resolved, That this Association appoint and maintain a permanent office for the transaction of business in ———. (I have left the name of the city blank, but the suggestion has been made that Chicago ought to be the place.) That the Executive Committee establish such permanent office as soon as may be convenient, and that the Secretary shall upon the establishment of such office appoint an assistant to take charge of the work in such office, and that the Executive Committee may entail an expense for the purpose aforesaid, including rental, salary of such local Assistant Secretary, compensation of stenographer, etc., not to exceed \$2,500 a year."

At the time I drew this resolution I did not know that there was an Assistant Secretary and therefore I should amend the resolution as drawn by making it read a local Assistant Secretary.

The President:

Under the rules, resolutions presented on the floor of the house and not emanating from a committee are referred without debate to an appropriate committee.

Harry S. Mecartney, of Illinois:

I only want to speak briefly and state why I offer the resolution.

The President:

The Chair must rule that debate upon the subject of the resolution is not in order. To what committee does the gentleman suggest a reference?

Dan W. Simms, of Indiana:

I would suggest the Obituary Committee.

Harry S. Mecartney, of Illinois:

I am sorry I cannot state the reason why I offer the resolution; I wanted an opportunity to show that I am not a corpse.

The President:

The Chair would again inquire to what committee the gentleman suggests the reference?

Harry S. Mecartney, of Illinois:

I think it ought to go to the Executive Committee.

The President:

Very well. Then the resolution will be received; it is referred to the Executive Committee.

Harry S. Mecartney, of Illinois:

With power to act?

The President:

With power to recommend.

George G. Sutherland, of Wisconsin:

I have a brief resolution that I ask be referred to the Executive Committee:

"Resolved, By the American Bar Association that a suitable badge or emblem be adopted for annual meeting purposes so designed that the name of the member can appear thereon."

The President:

The resolution will be received; it is referred to the Executive Committee.

William Draper Lewis, of Pennsylvania:

I desire to offer the following:

"WHEREAS, There is in this country a growing tendency to criticize and condemn the courts, federal and state, for their alleged tendency to declare unconstitutional or render ineffective by interpretation legislation enacted for the purpose of remedying existing social and industrial evils; and

"WHEREAS, We believe that much of the social and other remedial legislation, however worthy in its aims, is so little considered in its relation to existing constitutional and statutory provisions and so hastily prepared and so unscientifically drafted that it is often impossible for the courts to give its purposes effect.

"Resolved, That the President of the Association appoint a special committee consisting of seven members of this Association to consider whether some efficient agency cannot be devised to provide our legislatures with scientific and expert assistance in the formulation of legislation and to report at the next meeting of the Association the existing methods of furnishing such assistance in the preparation of legislative enactments with recommendations as to the part, if any, which this Association should take in this matter."

If that resolution is seconded I desire to say a word in explanation of it.

Charles A. Boston, of New York:

I second the resolution.

The President:

The resolution seems to be on a plane with the other. I would suggest that it be referred to the Committee on Jurisprudence and Law Reform.

William Draper Lewis, of Pennsylvania:

It calls for the appointment of a special committee.

The President:

If you will leave out the preamble and then move for the appointment of a committee to consider and report whether some means cannot be devised of affording assistance in the matter of legislation I should be very glad to entertain the motion.

William Draper Lewis, of Pennsylvania:

Very well, sir; I will follow the suggestion.

The President:

Now you may have the floor.

William Draper Lewis, of Pennsylvania:

The object of the resolution is to provide that we shall have a special committee to investigate the drafting associations and bureaus connected with legislation to ascertain whether they have really been effective in rendering legislation less slipshod, and to report whether this Association should in the opinion of the special committee encourage the movement now before Congress to create a similar bureau in connection with Congress and the movement to create similar bureaus in connection with state legislatures.

Charles A. Boston, of New York:

I desire to add that there is such a model legislative drafting bureau now existing in the City of New York, established under the auspices of Columbia University, and endowed by private contribution for a period of five years which it is aimed to make a model and show what similar institutions can do. I have reason to know that that bureau was consulted about and is now considering some of the most important legislative changes that are being attempted in this country designed to carry out the movement toward reform of which we have heard so much. It is of great interest to this Association that the investigation proposed by Professor Lewis should be made. The Association would act wisely by putting this matter in the hands of a special committee.

Oscar Hundley, of Alabama:

This resolution ought to be referred to the appropriate committee. The fact that the gentleman from Pennsylvania has simply stated what he has incorporated in his resolution does not take it out of the rule.

The President:

The question is on the motion referring the subject-matter to a special committee.

Oscar Hundley, of Alabama:

I rise to the point of order that the motion is not in order.

Joseph B. David, of Illinois:

There is no real difference between the reference of a resolution to a committee, and the reference to a committee by motion of the subject-matter contained in the resolution.

The President:

I am inclined to think, if the point of order is insisted upon, that the motion is out of order. The resolution contains recitals which might be regarded as expressive of the sense of the Association. It was to guard against resolutions of that kind in the closing hours of a meeting without previous consideration, that the rule was adopted.

William Draper Lewis, of Pennsylvania:

I simply move for the appointment of a special committee to consider the subject-matter.

The President:

I do not see that the motion partakes of the character of a resolution, and the motion may be entertained.

E. T. Florance, of Louisiana:

I move as a substitute that the subject-matter of expert assistance be referred to the Standing Committee on Jurisprudence and Law Reform. That will put the matter before us in parliamentary shape.

The President:

I do not think that is quite in order. You may move as a substitute for the motion that the Committee on Jurisprudence and Law Reform be directed to report on the subject.

E. T. Florance, of Louisiana:

I will accept the Chair's suggestion and put the motion in that form.

Charles A. Boston, of New York:

I oppose the substitute for the reason that this very matter, in substance, has already for one year been under consideration by that committee and they have not made any recommendation

upon it. I surmise that the reason is that it may be referred to a special committee whose attention may be directed to this one point.

Joseph B. David, of Illinois:

Our By-Laws provide that unless a resolution is presented on this floor by a committee, it is not to be reported at all.

John B. Baskin, of Kentucky:

I move that the substitute be laid on the table.

W. W. Ross, of Illinois:

I second the motion.

The President:

All in favor of laying on the table the motion that the Committee on Jurisprudence and Law Reform report on the practicability of organizing a kind of expert bureau to assist in legislation will say aye; all opposed, no. The Chair is in doubt and will call for a standing vote.

Henry Wade Rogers, of Connecticut:

In order that members may understand what they are voting on, I ask the Chair to state whether in adopting the motion to lay the substitute on the table, it does not carry with it also the original motion.

The President:

It has been ruled in this Association that it does not; I so hold. All in favor of tabling the substitute offered by Mr. Florance will rise and stand until counted. All opposed will now rise.

The substitute was tabled.

John B. Baskin, of Kentucky:

I now move to lay the original motion on the table.

The motion was seconded and was lost.

The President:

The question now recurs on the motion offered by Mr. Lewis. I will ask that it be stated again.

William Draper Lewis, of Pennsylvania:

My motion is that the President of this Association appoint a special committee consisting of seven members to consider whether some efficient agency cannot be devised to provide the several state legislatures with scientific and expert assistance in the framing of legislation, the committee to report at the next meeting of the Association the existing methods of furnishing such assistance in the preparation of legislative enactments, together with recommendation as to the part, if any, which this Association should take in the matter.

Burton Smith, of Georgia:

I second that motion.

The motion was carried.

Thomas Mackenzie, of Maryland:

There was a report made the other evening from the Committee on Law Reporting and Digesting. If the Association is to get the benefit of the suggestions contained in that report, a copy ought to be sent to the law book publishers. There are only about fourteen or fifteen of them. I move that copies of the report of that committee be sent by the Secretary to the publishers of law books in the United States.

William L. January, of Michigan:

I second that motion.

Ralph W. Breckenridge, of Nebraska:

Has not the Association adopted the recommendation of the Executive Committee which leaves the publication of all papers and addresses with the Association itself?

The President:

With the Publication Committee and the Executive Committee, but I suppose this motion contemplates that these papers if published shall be distributed. I believe that the report to which the gentleman referred has been printed and published.

The motion was carried.

Thomas Mackenzie, of Maryland:

I have another resolution, which I ask to be referred to the Executive Committee without debate.

The President:

The resolution may be handed to the Secretary. It will be referred to the Executive Committee.

W. A. Ketcham, of Indiana:

I want to know what this resolution is, and I think other members here would like to know.

The President:

The Chair would state that the members will know when the resolution comes before the house from the Executive Committee. There will be no chance to vote on it for a year.

Thomas Mackenzie, of Maryland:

I am entirely willing to state the substance of the resolution.

The President:

For the information of the gentleman from Indiana, the Assistant Secretary will read the resolution.

W. A. Ketcham, of Indiana:

Is it something that has been referred to a committee?

The President:

It is a resolution offered by Mr. Mackenzie, of Maryland, and he requests that it be referred to the Executive Committee without reading.

W. A. Ketcham, of Indiana:

Oh! I did not understand.

Thomas Mackenzie, of Maryland:

If the Chair will permit me, I will state the substance of the resolution.

The President:

The Assistant Secretary will read it.

The Assistant Secretary (reading):

"The Executive Committee is requested hereafter always to arrange for a reception, with light refreshments, to the members of this Association and the ladies accompanying them, to be held on the afternoon of the first day of each annual meeting, in order that the members may become acquainted with one another at an early period of the session."

W. A. Ketcham, of Indiana:

I have not the slightest objection.

Thomas Mackenzie, of Maryland:

May I state the object of the resolution? I noticed that the members of the Association did not get acquainted, and in fact they usually do not get acquainted with one another until near the end of the sessions when the meeting is about over. A great many of them never meet until the banquet, and the thought occurred to me that there ought to be some arrangement at the first session of our meeting so that members can be brought together and made to know each other, to know not only our faces, but to know each other's names.

S. Griffin, of Virginia:

I wish to offer an amendment to the gentleman's motion, namely, that it be *refreshments*, without the qualification *light*.

The President:

The Executive Committee will consider the motion as well as the amendment suggested, and act accordingly.

W. A. Blount, of Florida:

In appreciation of the charming and unstinted hospitality of the Milwaukee Bar Association, of the citizens of Milwaukee, and of the various organizations that have entertained the members of the American Bar Association at this meeting, I move that the thanks of the Association be most cordially tendered.

The motion was variously seconded and unanimously carried.

The Assistant Secretary:

I have received the resignation of John H. Voorhees as a member of the General Council from South Dakota.

The President:

It was rendered necessary by the fact that Mr. Voorhees has been elected a member of the Executive Committee. Has South Dakota any nomination to make to fill the vacancy?

Tore Teigen, of South Dakota:

Yes, sir. South Dakota nominates Mr. U. S. G. Cherry of Sioux Falls.

The President:

The nomination is ratified, there being no objection.

E. T. Florance, of Louisiana:

I move that the Assistant Secretary cast the ballot of the Association for the election of the nominees recommended by the General Council as the unanimous choice of the American Bar Association for the respective offices for which they are named.

Henry Stockbridge, of Maryland:

I second that motion.

The President:

All in favor of the motion will say aye; opposed, no. The motion is unanimously carried.

The Assistant Secretary:

I have cast the ballot of the Association as directed.

The President:

I declare the nominees duly and regularly elected officers of the Association for the ensuing year.

I will ask Mr. Frank B. Kellogg to step to the platform.

The newly elected President, Frank B. Kellogg, of Minnesota, was then escorted to the President's chair.

The President:

I take great pleasure in presenting the President-elect, Mr. Kellogg. I will only say that in my opinion the Presidency of this Association is a very great distinction and in this instance it has been most worthily bestowed.

President-elect Kellogg:

I fully realize the great distinction, and I thank you heartily for the honor. I hope I may maintain the high standard set by the distinguished Presidents who have preceded me.

. The Association then adjourned *sine die*.

GEORGE WHITELOCK,

Secretary.

SECRETARY'S REPORT

MILWAUKEE, WIS., August 27, 1912.

To the American Bar Association:

The report of the proceedings of the last annual meeting held at Boston, Mass., August, 1911, has been printed and distributed to all the members of the Association, to all State Bar Associations and legal journals, and to a large number of libraries in the United States and abroad. For the purpose of keeping the size of the report within reasonable limits, the lists of members were printed in smaller type and in double columns and the special list of new members was omitted, and, as a substitute therefor, appropriate marks and explanatory notes were inserted in the state list of members. The space thus saved was 159 printed pages, and the cost of printing the report was likewise reduced.

There were 4639 members of the Association at the close of the last meeting. A special committee on increase of membership has been since constituted with Mr. Charles J. O'Connor of Illinois as Chairman. The Executive Committee has elected 564 new members in the interval between the meeting of 1911 and the meeting of 1912.

The membership of the Association now includes representatives of all the states, the District of Columbia, the insular possessions of Hawaii, Porto Rico and the Philippine Islands.

Invitations were sent to all State Bar Associations to send three delegates to the present meeting. There are in existence 46 State Bar Associations; and also the Bar Association of the District of Columbia, the Bar Association of the Hawaiian Islands, and about 506 local Bar Associations.

The reports for this year of the Committees on Judicial Administration and Remedial Procedure; Commercial Law; Law Reporting and Digesting; Patent, Trade Mark and Copyright Law; Insurance Law; Uniform State Laws; Special Com-

mittee on Government Liens on Real Estate; the Committee to Suggest Remedies and Formulate Proposed Laws to Prevent Delay and Unnecessary Cost of Litigation; the Special Committee to Present to Congress Bills Relating to Courts of Admiralty; the Committee on Compensation for Industrial Accidents and their Prevention; the Committee on Publicity; the report of the Comparative Law Bureau and the special report of the Executive Committee were all printed and distributed by mail to the members of the Association fifteen days before this meeting.

Under the direction of the newly constituted Committee on Publicity, of which Mr. Charles A. Boston of New York is Chairman, synopses of the various addresses and committee reports of the present meeting were printed and copies sent to all of the press associations for release on appropriate dates.

The Secretary's office has continued to supply upon request copies of the Code of Professional Ethics adopted by the Association.

Notices were duly sent by the Secretary to all standing and special committees, requesting their attention to such matters as were particularly referred to them.

A register of those in attendance is kept in the corner store on the main floor of the Hotel Pfister, except during the sessions of the Association when the register is kept at the place of meeting. Every member and delegate is requested to sign it as early as convenient. A list of those present will be printed for distribution at the meetings, and will also be included in the report of the proceedings. Copies of the Constitution and By-Laws, lists of officers, and members of committees, copies of committee reports and forms of nominations can be had at the Hotel Pfister, or at the place of meeting.

The Secretary endeavors to keep the street address of each member, and notification of change of address is requested.

Respectfully submitted,

GEO. WHITELOCK,

Secretary.

August 27, 1912.

TREASURER'S REPORT

1912-1913.

Dr.

| | |
|--|-------------------|
| To cash on hand at date of last report..... | 10,034.38 |
| To cash received subscriptions to annual dinner at Boston, Mass., August, 1911 | 1,706.00 |
| To cash received rebate on wine used at annual dinner | 105.50 |
| To cash received from the sale of copies of the annual reports of the Association, by Secre- tary Whitelock, during the year 1911-1912.. | 81.10 |
| To cash received from express companies being amounts overcharged on shipments made by Secretary in February, March and April, 1912 | .94 |
| To interest on funds deposited in Albany Trust Company, Albany, N. Y., special interest account to July 1, 1912 | 144.76 |
| To cash received dues of members for 1908 (1) | 5.00 |
| To cash received dues of members for 1909 (3) | 15.00 |
| To cash received dues of members for 1910 (10) | 50.00 |
| To cash received dues of members for 1911 (229) | 1,145.00 |
| To cash received dues of members for 1912 (3449) | 17,245.00 |
| To cash received dues of members for 1913 (57) | 285.00 |
| | <hr/> 18,745.00 |
| Total receipts | <hr/> \$30,817.68 |

Credit by Disbursements as follows:

1911.

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|--|------------|
| Sept. 1. By cash paid Benjamin F. Teel, Boston, for music furnished at annual dinner at Boston, August 31, 1911 | 80.00 |
| 1. By cash paid Hotel Somerset, Boston, for annual dinner, wine, etc., August 31, 1911 | 2,982.05 |
| | <hr/> |
| Carried forward | \$3,062.05 |

\$30,817.68

TREASURER'S REPORT.

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|----------|---|------------|-------------|
| 1911. | Brought forward | \$3,062.05 | \$30,817.68 |
| Sept. 1. | By cash paid Hotel Vendome, Boston, for taxis, autos, extra meals of guests and helpers, etc..... | 50.20 | |
| | 1. By cash paid Lenox Hotel Co., Bos- ton, bill of Mr. Pierre Beullac, guest of Association | 42.35 | |
| | 1. By cash paid Hotel Westminster, Boston, bill of J. M. Clarke, K. C. guest of Association | 16.00 | |
| 13. | By cash paid Mr. FitzHenry Smith, Jr., Boston, to refund his dis- bursements in securing hotel accomodations for members at- tending annual meeting | 90.53 | |
| 13. | By cash paid Mrs. J. Taylor Ellison, Richmond, Va., President of the Society for the Preservation of Virginia Antiquities for preser- vation of John Marshall House.. | 500.00 | |
| 13. | By cash paid Mr. Everett P. Wheeler, New York, to refund his disburse- ments on behalf of Committee to Suggest Remedies | 11.22 | |
| 16. | By cash paid Charles M. Hepburn, Indiana, to refund his disburse- ments on behalf of Section of Legal Education | 35.30 | |
| 18. | By cash paid The Lord Baltimore Press, Baltimore, Md., for print- ing program of annual meeting, circulars, etc | 191.62 | |
| 18. | By cash paid The Lord Baltimore Press, Baltimore, Md., for print- ing committee reports, etc | 460.25 | |
| | Carried forward | \$4,459.52 | \$30,817.68 |

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| 1911. | Brought forward | \$4,459.52 | \$30,817.68 |
| Sept. 18. | By cash paid George W. King Printing Company, Baltimore, Md., preparing placards, etc., for use at annual meeting | 8.25 | |
| 18. | By cash paid Lucas Brothers, Baltimore, Md., stationers, for folders, case, etc..... | 3.20 | |
| 18. | By cash paid J. B. Lyon Co., Albany, N. Y., for binding dues record book | 3.00 | |
| 18. | By cash paid Charles A. Morrison, New York, stenographer, for reporting proceedings at annual meeting at Boston, annual dinner, and proceedings of Section of Legal Education and Patent Law | 432.20 | |
| 20. | By cash paid Fort Orange Club, Albany, for cigars used at meeting. | 47.30 | |
| 26. | By cash paid The Lord Baltimore Press, Baltimore, Md., to refund its disbursements for postage in mailing copies of addresses at Boston meeting to members of Association | 181.00 | |
| 26. | By cash paid Lord Baltimore Press for printing 2000 copies report 1911 of Committee on Patent, Trade-Mark and Copyright Law. | 15.65 | |
| 29. | By cash paid Lord Baltimore Press for additional postage for sending out addresses at meeting... | 30.36 | |
| | Carried forward | \$5,180.48 | \$30,817.68 |

TREASURER'S REPORT.

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|---------|--|------------|-------------|
| 1911. | Brought forward | \$5,180.48 | \$30,817.68 |
| Oct. 4. | By cash paid George H. Ellis Co., Boston, Mass., printers, for three editions of 600 each of list of members and delegates regis- tered at the meeting in Boston.. | 226.03 | |
| 17. | By cash paid John Hinkley, Balti- more, Md., to refund his dis- bursements in attending meeting of Executive Committee in New York, Oct. 13, 1911 | 15.95 | |
| 20. | By cash paid Quayle & Co., Albany, N. Y., engravers, for letter heads | 29.45 | |
| 20. | By cash paid Argus Co., Albany, N. Y., for printing and furnish- ing dinner tickets, table cards, wine books, song books, ledger cards, stamped envelopes, letter heads, receipt books, etc. | 187.50 | |
| 20. | By cash paid Frederick E. Wadhams, Albany, N. Y., to refund his dis- bursements in attending meeting of Executive Committee in New York October 13, and for lunch- eon for committee and its guests | 62.45 | |
| 20. | By cash paid R. W. Breckenridge, Omaha, Neb., to refund his dis- bursements in attending meeting of Executive Committee in New York, October 13, 1911..... | 51.75 | |
| 21. | By cash paid Everett, Waddey & Co., Richmond, Va., printers, for printing annual bulletin 1911 of Comparative Law Bureau | 900.00 | |
| | Carried forward | \$6,653.61 | \$30,817.68 |

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| 1911. | Brought forward | 6,653.61 | \$30,817.68 |
| Oct. 23. | By cash paid Hollis R. Bailey, Boston, Mass., to refund his disbursements in attending meeting of Executive Committee in New York, October 13, 1911.... | 20.25 | |
| 26. | By cash paid S. S. Gregory, Chicago, Ill., to refund his disbursements in attending meeting of Executive Committee in New York, October 13 | 110.25 | |
| 27. | By cash paid George T. Page, Peoria, Ill., to refund his disbursements in going to Albany, Boston, Washington, etc., Oct. 3 to Oct. 14 | 189.10 | |
| 27. | By cash paid E. Moebius, Camden, N. J., for furnishing portraits of President Farrar for use in annual report | 128.00 | |
| 27. | By cash paid Lord Baltimore Press, Baltimore, Md., for postage in sending out to members copies of speeches at annual dinner | 94.90 | |
| Nov. 1. | By cash paid Lord Baltimore Press, Baltimore, Md., for printing addresses delivered at annual meeting, expressage, etc..... | 475.73 | |
| 3. | By cash paid George Whitelock, Baltimore, Md., to refund his disbursements in attending meeting of Executive Committee in New York, October 13, 1911..... | 23.25 | |
| 6. | By cash paid Lord Baltimore Press, Baltimore, Md., for printing speeches at annual dinner and mailing same (inserting in envelopes, stamping, etc.)..... | 120.80 | |
| | Carried forward | \$7,815.89 | \$30,817.68 |

TREASURER'S REPORT.

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|----------|---|------------|-------------|
| 1911. | Brought forward | \$7,815.89 | \$30,817.68 |
| Dec. 1. | By cash paid Lord Baltimore Press, Baltimore, Md., printers, for al- terations, etc., in address by Edwin J. Prindle | 2.40 | |
| 15. | By cash paid Argus Company, Al- bany, N. Y., for 500 two cent stamped envelopes | 13.50 | |
| 26. | By cash paid Everett P. Wheeler, New York, to refund his dis- bursements for the Committee to Suggest Remedies | 47.05 | |
| 1912. | | | |
| Jan. 26. | By cash paid Lynn Helm, Los An- geles, Cal., to refund his dis- bursements in attending meeting of Executive Committee, at Wash- ington, D. C., January 3-5, 1912.. | 258.00 | |
| 26. | By cash paid Hollis R. Bailey, Bos- ton, Mass., to refund his dis- bursements in attending meeting of Executive Committee, at Wash- ington, Jan. 3-5..... | 39.00 | |
| 26. | By cash paid S. S. Gregory, Chicago, Ill., to refund his disbursements in attending meeting of Execu- tive Committee at Washington, January 3-5 | 112.86 | |
| 29. | By cash paid Frederick E. Wadhams, Albany, N. Y., to refund his dis- bursements attending meeting of Executive Committee, Washing- ton, January 3-5 | 66.94 | |
| | Carried forward | \$8,355.64 | \$30,817.68 |

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| 1912. | Brought forward | \$8,355.64 | \$30,817.68 |
| Feb. 3. | By cash paid Everett P. Wheeler, New York, to refund his dis- bursements for Committee to Suggest Remedies | 63.72 | |
| 3. | By cash paid Norman T. A. Munder, Baltimore, Md., printers, for blanks, etc. | 22.25 | |
| 21. | By cash paid John Hinkley, Balti- more, Md., to refund his dis- bursements in attending meeting of Executive Committee at Wash- ington, January 3-5; also his expenses to Montreal as delegate to the meeting of the Bar of Montreal | 61.44 | |
| 21. | By cash paid Harry St. George Tucker, Lexington, Va., to refund his expenses in attending as delegate the meeting of the Bar of Montreal | 90.00 | |
| 21. | By cash paid R. E. L. Saner, Dallas, Tex., to refund his disbursements in attending the meeting of the Committee to Suggest Remedies, at Washington, January 20, 1912 | 150.70 | |
| Mar. 1. | By cash paid Frank Irvine, Ithaca, N. Y., to refund his disburse- ments in attending the meeting of the Committee to Suggest Remedies, at Washington, Janu- ary 20, 1912..... | 16.50 | |
| 5. | By cash paid Harry E. Pohlman, Bal- timore, Md., for delivering copies of annual report to members re- siding in Baltimore | 12.50 | |
| | Carried forward | \$8,772.75 | \$30,817.68 |

TREASURER'S REPORT.

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| 1912. | Brought forward | \$8,772.75 | \$30,817.68 |
| Mar. 5. | By cash paid Frederick E. Wadhams, Albany, N. Y., Treasurer, to refund his disbursements for postage in sending out to the members of the association copies of the addresses of President Taft and Senator Root before the New York State Bar Association, on the subject of Judicial Recall | 94.00 | |
| | 7. By cash paid Argus Co., Albany, N. Y., for stamped envelopes, shipping labels, letter heads, manilla clasp envelopes, etc.... | 200.25 | |
| | 28. By cash paid Arthur I. Vorys, Columbus, Ohio, to refund his disbursements in attending meeting of Insurance Committee, at Washington, March 1-2..... | 41.10 | |
| | 28. By cash paid Everett P. Wheeler, New York, to refund his expenses for Committee to Suggest Remedies | 31.25 | |
| | 28. By cash paid Albany Circular & Writing Company, Albany, N. Y., for filling, stamping and mailing addresses on subject of Judicial Recall | 6.50 | |
| | 28. By cash paid R. W. Breckenridge, Omaha, Neb., to refund his disbursements in attending meeting of Insurance Committee, at Washington, March 1-2..... | 140.00 | |
| | 28. By cash paid Argus Co., Albany, N. Y., for stamped envelopes for sending out notice of dues, and for return envelopes | 128.00 | |
| | Carried forward | \$9,413.85 | \$30,817.68 |

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|-----------|---|-------------|-------------|
| 1912. | Brought forward | \$9,413.85 | \$30,817.68 |
| Mar. 28. | By cash paid Edmund F. Trabue, Louisville, Ky., to refund his disbursements for Committee to Oppose Judicial Recall..... | 2.77 | |
| 28. | By cash paid Frank E. Gove, Denver, Col., to refund his expenses in attending meeting of Committee to Oppose Judicial Recall at Chicago, March 19 | 78.20 | |
| April 10. | By cash paid Lord Baltimore Press, Baltimore, Md., for printing and binding volume 36 of the annual reports (1911) | 4,464.80 | |
| 10. | By cash paid S. S. Gregory, Chicago, Ill., to refund certain disburse- ments for typewriting, telegrams, printing, etc | 104.91 | |
| 17. | By cash paid E. A. Eulass, Chicago, Ill., stenographer, for services rendered Committee to Oppose Judicial Recall | 5.50 | |
| 17. | By cash paid George T. Page, Peoria, Ill., to refund his disbursements for Committee to Oppose Judicial Recall | 17.00 | |
| 17. | By cash paid E. M. Carr, Manchester, Ia., to refund his expenses in attending meeting of Committee to Oppose Judicial Recall, Chi- cago, March 19 | 19.26 | |
| 18. | By cash paid Lord Baltimore Press, Baltimore, Md., for 5000 circu- lar letters | 92.75 | |
| | Carried forward | \$14,199.04 | \$30,817.68 |

TREASURER'S REPORT.

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| 1912. | Brought forward | \$14,199.04 | \$30,817.68 |
| May 2. | By cash paid Henry Wade Rogers, New Haven, Conn., to refund ex- penses attending meeting Com- mittee on Legal Education, at Philadelphia, April 7..... | 15.00 | |
| | 2. By cash paid J. W. Green, Lawrence, Kan., to refund his disbursements in attending meeting of Com- mittee on Legal Education, at Philadelphia, April 7..... | 90.00 | |
| | 14. By cash paid Thomas H. Reynolds, Kansas City, Mo., to refund his disbursements in attending meet- ing of Committee on Commercial Law, at Washington | 80.00 | |
| | 14. By cash paid Lord Baltimore Press, Baltimore, Md., composition on circular letter ordered cancelled. | 2.75 | |
| | 14. By cash paid Ernest T. Florance, New Orleans, La., to refund his disbursements on behalf of the Committee on Commercial Law. | 91.00 | |
| | 21. By cash paid United States Express Co., Baltimore, Md., for shipping annual report | 1,459.73 | |
| | 28. By cash paid Charles Henry Butler, Washington, D. C., to refund his disbursements for traveling ex- penses, etc., of members of the committee in attending meeting of Committee on Compensation for Industrial Accidents, etc ... | 171.40 | |
| | Carried forward | \$16,108.92 | \$30,817.68 |

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| 1912. | Brought forward | \$16,108.92 | \$30,817.68 |
| June 5. | By cash paid Frederick E. Wadhams, Albany, N. Y., Treasurer, to refund his disbursements in going to Washington, June 5, to present to Hon. Elihu Root invitation to deliver annual address..... | 40.05 | |
| 11. | By cash paid George H. Buchanan Co., Philadelphia, Pa., for printing 1911 report Committee on Standard Rules for Admission to the Bar, Section of Legal Education | 227.90 | |
| 14. | By cash paid Frederick E. Wadhams, Albany, N. Y., Treasurer, to refund his disbursements in going to Milwaukee to make arrangements for annual meeting | 85.35 | |
| 28. | By cash paid Argus Co., Albany, N. Y., for stamped envelopes, receipt books, notices of dues, etc. | 190.25 | |
| 28. | By cash paid Argus Co., printing addresses by President Taft and Senator Root at New York State Bar Association meeting on subject Judicial Recall and sent to members American Bar Association | 120.67 | |
| 28. | By cash paid Talcott H. Russell, New Haven, Conn., Treasurer, amount appropriated to the Commissioners on Uniform State Laws. | 750.00 | |
| 28. | By cash paid Lord Baltimore Press, Baltimore, Md., for 5600 circular letters | 35.25 | |
| | Carried forward | \$17,558.39 | \$30,817.68 |

TREASURER'S REPORT.

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| 1912. | Brought forward | \$17,558.39 | \$30,817.68 |
| Aug. 1. | By cash paid Everett P. Wheeler, New York, to refund his disbursements on behalf of the Committee to Suggest Remedies. | 29.17 | |
| 2. | By cash paid Joseph C. Grieb, Milwaukee, Wis., Manager Milwaukee Auditorium on account of rent of Walker Hall for annual meeting | 5.00 | |
| 2. | By cash paid Joseph C. Grieb, Manager Milwaukee Auditorium on account of rent of Juneau Hall, annual meeting | 20.00 | |
| 7. | By cash paid The Argus Co., printing preliminary notice of meeting, stamped envelopes, letter heads, circulars, etc. | 345.00 | |
| 17. | By cash paid The Argus Co., furnishing and printing card on manilla clasp envelopes for sending out program of meeting 1912, and committee reports, printing dinner tickets, table cards, etc., and furnishing and printing card on manilla envelopes sending out report Committee on Standard Rules, Section Legal Education, stamped envelopes, etc..... | 205.75 | |
| 17. | By cash paid Hollis R. Bailey, Boston, Mass., to refund his disbursements in attending meeting of Executive Committee at Cape May, N. J., August 12, 1912..... | 37.61 | |
| 17. | By cash paid John Hinkley, Baltimore, Md., to refund his disbursements in attending meeting of Executive Committee at Cape May, August 12 | 24.00 | |
| | Carried forward | \$18,224.92 | \$30,817.68 |

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| 1912. | Brought forward | \$18,224.92 | \$30,817.68 |
| Aug. 17. | By cash paid Mrs. J. T. Powers, New York, typewriting for Committee to Suggest Remedies | 2.10 | |
| 19. | By cash paid Harry St. George Tucker, Lexington, Va., to refund his disbursements in attending meeting of Executive Committee Cape May, N. J., August 12, 1912 | 32.50 | |
| 19. | By cash paid R. W. Breckenridge, Omaha, Neb., to refund his disbursements in attending the meeting of the Executive Committee at Cape May, August 12. | 115.00 | |
| 19. | By cash paid S. S. Gregory, Chicago, Ill., to refund his disbursements for telegrams, expressage, etc., from May 15 to August 10, 1912. | 19.38 | |
| 19. | By cash paid S. S. Gregory, Chicago, Ill., to refund his disbursements in attending meeting of Executive Committee at Cape May, August 12 | 118.05 | |
| 19. | By cash paid George Whitelock, Baltimore, Md., to refund his disbursements and those of assistant secretary and stenographer, in attending meeting of Executive Committee at Cape May, August 12 | 85.45 | |
| 20. | By cash paid Albany Business College, Albany, N. Y., for addressing envelopes to Federal Judges, State Bar Examiners, etc., sending out report of Committee on Standard Rules, Section of Legal Education | 4.69 | |
| | Carried forward | \$18,602.09 | \$30,817.68 |

TREASURER'S REPORT.

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| 1912. | Brought forward | \$18,602.09 | \$30,817.68 |
| Aug. 20. | By cash paid Frederick E. Wadhams, Albany, N. Y., to refund his disbursements in attending meeting of Executive Committee at Cape May, August 12, 1912 | 40.80 | |
| | By cash paid United States Express Co., Baltimore, Md., for shipments made by Secretary during the year 1911-1912 exclusive of shipment of annual report..... | 26.00 | |
| | By cash paid Calvert Building & Construction Company, Baltimore, Md., for rent of storage rooms for copies annual reports of proceedings for year 1911-1912 | 99.97 | |
| | By cash paid Addressograph Company, New York, for addressograph plates furnished during the year 1911-1912..... | 19.44 | |
| | By cash paid W. Thomas Kemp, Assistant Secretary, Baltimore, Md., to refund his disbursements for traveling expenses of self and assistant, telegrams, telephone, expressage, cartage, etc., etc. | 145.33 | |
| | By cash paid George Whitelock, Baltimore, Md., Secretary, to refund his disbursements for telegrams, telephone, expressage, postage, stationery, supplies, printing, etc., during the year 1911-1912.. | 617.74 | |
| | By cash paid George Whitelock, Baltimore, Md., Secretary, for salary for assistants during year 1911-1912 | 2,000.00 | |
| | Carried forward | \$21,551.37 | \$30,817.68 |

1912. Brought forward \$21,551.37 \$30,817.68

By cash paid Frederick E. Wadhams,
Albany, N. Y., Treasurer, for
balance of salary of assistant
for year 1910-1911 350.00

By cash paid Frederick E. Wadhams,
Albany, N. Y., Treasurer, for
salary of assistant for year 1911-
1912 1,350.00

By cash paid Frederick E. Wadhams,
Treasurer, to refund his disburse-
ments for telegrams, telephone,
postage, expressage, stationery,
supplies, traveling expenses of
assistant and hotel bill of as-
sistant at meeting, etc., during
year 1911-1912 427.72

Total Disbursements \$23,679.09 \$30,817.68

Summary.

Total receipts \$30,817.68

Total disbursements 23,679.09

Balance \$ 7,138.59

Which balance consists of

Amount to credit of Treasurer
in Albany Trust Co. \$ 2,553.17

Amount to credit of Treasurer
in Albany Trust Co., special
interest account 4,563.33

Cash on hand in office 22.09

\$ 7,138.59

Respectfully submitted,

FREDERICK E. WADHAMS,

Treasurer.

MILWAUKEE, Wis., August 28, 1912.

We have examined the foregoing report, and checked it with the book accounts and vouchers, and find the report to be correct.

C. W. SMITH,
HIRAM GLASS,
Auditing Committee.

REPORT
OF THE
EXECUTIVE COMMITTEE

MILWAUKEE, WIS., August 27, 1912.

The Executive Committee respectfully reports that under the last clause of Art. IV of the Constitution, providing for the election of members by the Executive Committee between meetings when nominated by a majority of the Vice-President and Local Council, 564 new members were elected.

The committee further reports that in accordance with By-Law XII appropriations were made for the use of the committees of 1911-1912 not exceeding the following amounts:

\$900 to Comparative Law Bureau.

\$1000 to Commissioners on Uniform State Laws.

\$750 to Committee to Suggest Remedies and Formulate Proposed Laws to Prevent Delay and Unnecessary Cost in Litigation.

\$250 to Committee on Patent Trade Mark and Copyright Law.

\$350 to Committee on Commercial Law.

\$250 to Committee on Compensation for Industrial Accidents and their Prevention.

\$250 to Committee on Legal Education and Admissions to Bar.

\$500 to Committee on Taxation.

\$250 to Committee on Insurance Law.

\$600 to Committee to Oppose Judicial Recall.

\$750 to Section of Legal Education.

Total appropriations, \$5,850.

Certain bills for expenses incurred by members of the Committee on Patent Law aggregating \$848 in excess of the allow-

ance made to that committee were considered by the Executive Committee. Being bound by the By-Laws limiting expenses to the appropriations authorized in advance, the matter of such excess expenditure is hereby referred to the Association with the recommendation that the Executive Committee be authorized to appropriate an amount sufficient to pay such excess, inasmuch as the expenses were incurred in carrying out the directions of the Association.

The committee appropriated \$500 to be paid by the Treasurer of this Association to the Association for the Preservation of Virginia Antiquities to be applied toward the expense of preservation of the John Marshall Home in Virginia.

It was resolved that the Executive Committee recommend to the Association the establishment of a law journal under the auspices of the Association and that full power be given the Executive Committee to act in the premises.

It was resolved that every application for membership in the Association shall be accompanied by a remittance for the applicant's annual dues, and if the member is elected subsequent to May 1, the remittance shall be applied to his dues beginning with the following annual meeting.

It was resolved that the following amendment to the By-Laws be recommended to the Association for adoption:

"AMENDMENT TO ART. VI OF THE BY-LAWS.

"Make first sentence of Art. VI read: All papers read before the Association or any Section thereof, shall be lodged with the Secretary and become the property of the Association, and shall not be published without the consent of the Committee on Publication, unless by the express direction of the Executive Committee, except as herein otherwise provided for."

It was resolved that the President be authorized to appoint a Committee on Publicity to furnish the Press with information as to the proceedings of the Association and of the work of the committees, the same to continue until the annual meeting of the Association of 1912: And it was further resolved that the Executive Committee recommend to the Association that it authorize a standing Committee on Publicity.

It was resolved that the President be authorized to appoint a Committee on Increase of Membership the same to continue until the annual meeting of the Association of 1912: And it was further resolved that the Executive Committee recommend to the Association that it authorize a standing Committee on Increase of Membership.

Respectfully submitted,

S. S. GREGORY,
EDGAR H. FARRAR,
GEO. WHITELOCK,
FREDERICK E. WADHAMS,
RALPH W. BRECKENRIDGE,
LYNN HELM,
JOHN HINKLEY,
HOLLIS R. BAILEY,
ALDIS B. BROWNE.

Executive Committee.

SPECIAL REPORT

OF THE

EXECUTIVE COMMITTEE CONCERNING THE VOTE BY THE COMMITTEE TO ELECT MESSRS. WILLIAM H. LEWIS, BUTLER R. WILSON AND WILLIAM R. MORRIS TO MEMBERSHIP IN THE ASSOCIATION, AND THE RESCISSION THEREOF.

To the American Bar Association:

The Executive Committee hereby reports as to its action in the matter of Mr. William H. Lewis and Mr. Butler R. Wilson of Massachusetts and Mr. William R. Morris of Minnesota.

The provision of the constitution of the Association regulating the election of members by the Executive Committee is as follows:

"During the period between the annual meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council of any state." (Art. IV.)

And the provision of the constitution prescribing the qualifications of candidates for admission is as follows:

"Any person shall be eligible to membership in this Association who shall be, and shall, for five years next preceding, have been a member in good standing of the Bar of any state, and who shall also be nominated as hereinafter provided." (Art. II.)

The Executive Committee voted to elect the above named persons to membership upon the recommendation of the Local Councils of their respective states, as follows, viz.: Mr. William H. Lewis in August, 1911, Mr. Butler R. Wilson in June, 1911, and Mr. William R. Morris in October, 1911. They are all three colored men.

The names of Mr. William H. Lewis and Mr. Butler R. Wilson were reported by the committee to the annual meeting of 1911 as elected by the committee to membership in the Association. The name of Mr. William R. Morris was not so reported, inasmuch as the Executive Committee did not vote to elect him until after the annual meeting held on August 29, 30, 31, 1911.

No member of the committee who voted upon the election of any one of the three above named persons had any knowledge of the race of the candidate when so voting, or when the names of Messrs.

Lewis and Wilson were reported to the annual meeting of 1911, as far as the committee has been able to ascertain.

On January 4, 1912, the committee having learned the race of Mr. Wm. H. Lewis, a resolution was passed by the committee, after due notice to him, reading as follows, viz.:

"WHEREAS, This committee, in ignorance of material facts, did vote to elect as a member of this Association Mr. W. H. Lewis, of Massachusetts;

Be it Resolved, That the action of this committee in so voting on the nomination of Mr. W. H. Lewis, of Massachusetts, for membership in the American Bar Association be reconsidered and rescinded, and his name be restored to the list of nominees to be acted upon by the General Council at its next meeting;

And be it Further Resolved, That the dues of Mr. Lewis be either refunded to him or retained, pending the action of the General Council on the nomination, as he may elect; and that the Secretary send to Mr. Lewis a copy of these resolutions."

No action was taken by the committee on January 4, 1912, to rescind the vote upon the election of Mr. Butler R. Wilson or the vote upon the election of Mr. William R. Morris, because the committee had no knowledge of their race until some time thereafter. On August 12, 1912, their race having become known to the committee, two resolutions were passed by the committee, after due notice to them, reading as follows, viz.:

As to Mr. Butler R. Wilson as follows:

"WHEREAS, This committee, in ignorance of material facts, did in June, 1911, vote to elect as a member of this Association Mr. Butler R. Wilson, of Massachusetts;

Be it Resolved, That the action of this committee in so voting on the nomination of Mr. Butler R. Wilson, of Massachusetts, for membership in the American Bar Association be reconsidered and rescinded, and his name be restored to the list of nominees to be acted upon by the General Council at its next meeting;

And be it Further Resolved, That the dues of Mr. Wilson be either refunded to him or retained, pending the action of the General Council on the nomination, as he may elect; and that the Secretary send to Mr. Wilson a copy of these resolutions."

As to Mr. William R. Morris as follows:

"WHEREAS, This committee, in ignorance of material facts, did in October, 1911, vote to elect as a member of this Association Mr. William R. Morris of Minnesota;

Be it Resolved, That the action of this committee in so voting on the nomination of Mr. William R. Morris, of Minnesota, for

membership in the American Bar Association be reconsidered and rescinded, and his name be restored to the list of nominees to be acted upon by the General Council at its next meeting;

And be it Further Resolved, That the dues of Mr. Morris be either refunded to him or retained, pending the action of the General Council on the nomination, as he may elect; and that the Secretary send to Mr. Morris a copy of these resolutions."

The committee has not rejected any one of the three mentioned gentlemen for membership in the Association, or assumed to determine the desirability of electing to such membership a colored man otherwise qualified. But forasmuch as the settled practice of the Association has been to elect only white men as members thereof, the committee felt itself constrained to reserve the important question of electing colored men for determination by the Association itself, and to that end the committee has regarded it as a plain duty to rescind its earlier action.

The status of the three above named persons as candidates for admission remains unimpaired.

Having endeavored so to proceed as to leave the Association free to exercise its own plenary power, the committee now reports the matter to the Association without recommendation in the premises; and inasmuch as doubt has been expressed as to the right and jurisdiction of the Executive Committee to pass its resolutions of January 4, 1912, and August 12, 1912, the question as to whether the committee had power to act thereon, or to adopt such resolutions, is also hereby referred to the Association.

Respectfully submitted,

S. S. GREGORY, *President*.

GEORGE WHITELOCK,

FREDERICK E. WADHAMS,

LYNN HELM,

JOHN HINKLEY,

HOLLIS R. BAILEY,

EDGAR H. FARRAR,

ALDIS B. BROWNE,

I doubt the power of the committee to rescind the election of either Mr. Lewis or Mr. Wilson, but concur in submitting the whole matter to the Association.

RALPH W. BRECKENRIDGE,

August 12, 1912.

Members of the Executive Committee.

MEMBERS AND DELEGATES REGISTERED

AT THE

THIRTY-FIFTH ANNUAL MEETING

1912.

PRESIDENT.

Gregory, Stephen S., Chicago, Ill.

SECRETARY.

Whitelock, George, Baltimore, Md.

TREASURER.

Wadhams, Frederick E., Albany, N. Y.

ASSISTANT SECRETARY.

Kemp, W. Thomas, Baltimore, Md.

EXECUTIVE COMMITTEE.

Farrar, Edgar H., New Orleans, La.
Helm, Lynn, Los Angeles, Cal.
Hinkley, John, Baltimore, Md.
Breckenridge, Ralph W., Omaha, Neb.
Bailey, Hollis R., Boston, Mass.

EX-PRESIDENTS.

Tucker, H. St. George, Lexington, Va.
Dickinson, Jacob M., Nashville, Tenn.
Rose, U. M., Little Rock, Ark.
Baldwin, Simeon E., New Haven, Conn.
Peck, George R., Chicago, Ill.

CANADA.

Archambault, J. H., Montreal.
Archambault, J. L., Montreal.
Surveyer, E. Fabre, Montreal.

FRANCE.

Silhol, Jacques, Paris.
Le Grand, Albert L., Paris.

ALABAMA.

Cooper, Lawrence, Huntsville.
Harrison, George P., Opelika.
Hundley, Oscar R., Birmingham.
O'Neal, Emmet (Montgomery), Florence.
Pelham, John, Montgomery.
Rudulph, Z. T., Birmingham.

ARIZONA.

Ellinwood, Everett E., Bisbee.

ARKANSAS.

Arnold, William H., Texarkana.
Cockrill, Ashley, Little Rock.
Coleman, Charles T., Little Rock.
Cotham, C. T., Hot Springs.
Hawthorne, D. K., Jonesboro.
Henningway, W. E., Little Rock.
Lewis, W. M., Little Rock.
Loughborough, J. F., Little Rock.
Moose, William L., Morrilton.
Rector, William H., Little Rock.
Rose, U. M., Little Rock.
Stayton, Joseph M., Newport.
Wall, E. B., Fayetteville.
Youmans, Frank A., Fort Smith.

CALIFORNIA.

Becker, Henry C., Los Angeles.
Denis, George J., Los Angeles.
Helm, Lynn, Los Angeles.
Lynch, M. C., Berkeley.
Porter, Frank M., Los Angeles.
Porter, V. Mott, Santa Barbara.
Trippet, Oscar A., Los Angeles.

COLORADO.

Dines, Tyson S., Denver.
 Fleming, John D., Boulder.
 Hall, Henry C., Colorado Springs.
 Kelly, Harry E., Denver.
 McLean, Hugh, Denver.

CONNECTICUT.

Baldwin, Simeon E., New Haven.
 Rogers, Henry Wade, New Haven.
 Russell, Talcott H., New Haven.

DISTRICT OF COLUMBIA.

Bradford, Ernest W., Washington.
 Davis, Henry E., Washington.
 Edson, Joseph R., Washington.
 Fenning, Frederick A., Washington.
 Gatley, H. Prescott, Washington.
 Glassie, Henry Haywood, Washington.
 Henderson, William G., Washington.
 Jones, Henry Craig, Washington.
 Lewis, Fulton, Washington.
 McGill, J. Nota, Washington.
 Newcomb, H. T., Washington.
 Penfield, Walter S., Washington.
 Rogers, Walter F., Washington.

FLORIDA.

Blount, William A., Pensacola.
 Cockrell, Alston, Jacksonville.
 Cubberly, Fred., Gainesville.
 Hodges, William C., Tallahassee.
 Hunter, William, Tampa.
 Sheppard, William B., Pensacola.
 Simonton, F. M., Tampa.

GEORGIA.

Adams, Samuel B., Savannah.
 Hammond, Theodore A., Atlanta.
 Meldrim, Peter W., Savannah.
 Merrill, Jos. Hansell, Thomasville.
 Smith, Burton, Atlanta.
 Tye, John L., Atlanta.

ILLINOIS.

Baldwin, Jesse A., Chicago.
 Bancroft, Edgar A., Chicago.
 Behan, Louis J., Chicago.
 Berlet, R. E., Chicago.
 Brown, Fred. A., Chicago.
 Brown, Taylor E., Chicago.
 Burnham, Telford, Chicago.
 Burrus, Chas. H., Chicago.
 Barker, Burt Brown, Chicago.

Carter, Orrin N., Chicago.
 Chipman, Geo. E., Chicago.
 Cook, Wells M., Chicago.
 Costigan, George P., Jr., Chicago.
 Cowen, Israel, Chicago.
 Cressy, M. S., Chicago.
 Curran, William R., Pekin.
 Cutting, Charles S., Chicago.
 David, Joseph B., Chicago.
 Decker, Edward H., Urbana.
 Eastman, Sidney C., Chicago.
 Eaton, Marquis, Chicago.
 Fletcher, R. V., Chicago.
 Follansbee, Mitchell D., Chicago.
 Furness, William Elliot, Chicago.
 Gregory, Stephen S., Chicago.
 Gresham, Otto, Chicago.
 Hall, James Parker, Chicago.
 Harker, Oliver A., Champaign.
 Harrold, James P., Chicago.
 Hebard, Frederic S., Chicago.
 Higbee, Harry, Pittsfield.
 Hitt, Rector C., Ottawa.
 Hoyne, Thomas M., Chicago.
 James, Edmund J., Urbana.
 Kelly, Joseph I., Chicago.
 Kramer, Edward C., East St. Louis.
 Lane, Wallace R., Chicago.
 Lawrence, George A., Galesburg.
 Lee, Blewett, Chicago.
 Lee, Edward T., Chicago.
 Levinson, Salmon O., Chicago.
 Lewis, J. Hamilton, Chicago.
 Loesch, Frank J., Chicago.
 Lord, John S., Chicago.
 Lowy, Charles F., Chicago.
 MacChesney, Nathan William, Chicago.
 MacLeish, John E., Chicago.
 McCarthney, Harry S., Chicago.
 Mehlhope, Clarence E., Chicago.
 Miles, Charles V., Peoria.
 Miller, John S., Chicago.
 More, Clair E., Chicago.
 Morrill, Donald L., Chicago.
 Moses, Joseph W., Chicago.
 Niblack, William C., Chicago.
 Norton, T. J., Chicago.
 O'Connor, Charles J., Chicago.
 O'Donnell, J. L., Joliet.
 Olson, Albert O., Glencoe.
 Packard, George, Chicago.
 Page, Cecil, Chicago.
 Page, George T., Peoria.
 Parkinson, Robert H., Chicago.
 Peck, George R., Chicago.
 Poppenhusen, Conrad H., Chicago.

Prusings, Eugene E., Chicago.
 Richards, John T., Chicago.
 Richberg, John C., Chicago.
 Rosenthal, Lessing, Chicago.
 Ross, Walter W., Chicago.
 Scandrett, Henry A., Chicago.
 Schaffner, Arthur, Chicago.
 Schofield, Henry, Chicago.
 Silber, Frederick D., Chicago.
 Stephens, R. Allan, Danville.
 Teller, C. A., Chicago.
 Thomas, Morris St. Palaia, Chicago.
 Troup, Charles, Danville.
 Voigt, John F., Chicago.
 Wall, George W., Du Quoin.
 Wentworth, Daniel S., Chicago.
 Wheeler, Arthur D., Chicago.
 Whitman, Russell, Chicago.
 Worthington, Thomas, Jacksonville.
 Zeisler, Sigmund, Chicago.

INDIANA.

Bomberger, Loudon L., Hammond.
 Collins, Cornelius B., Michigan City.
 Fowler, I. H., Spencer.
 Fraser, Daniel, Fowler.
 Gavin, James L., Indianapolis.
 Hepburn, Charles M. (New York, N. Y.),
 Bloomington.
 Kane, Ralph K., Noblesville.
 Ketcham, William A., Indianapolis.
 Koons, Geo. H., Muncie.
 La Follette, J. J. M., Bloomington.
 Moores, Charles W., Indianapolis.
 Moores, Merrill, Indianapolis.
 Newberger, Louis, Indianapolis.
 Parker, Samuel, South Bend.
 Simms, Dan W., Lafayette.
 Wurzer, F. H., South Bend.

IOWA.

Calkins, Guy S., Iowa City.
 Carr, E. M., Manchester.
 Crosby, James O., Garnaville.
 Ferson, Merton L., Iowa City.
 Henry, George F., Des Moines.
 Horack, H. C., Iowa City.
 Kimball, F. B., Iowa City.
 Kirk, Clyde, Des Moines.
 Morrison, Edmund D., Washington.
 Murphy, Daniel D., Elkader.
 Shull, D. C., Sioux City.

KANSAS.

Campbell, J. J., Pittsburg.
 Higgins, William E., Lawrence.
 Hutchison, William Easton, Garden City.
 Kagey, C. L., Beloit.
 McClintock, W. S., Topeka.
 Osmond, William, Great Bend.
 Pulsifer, Park B., Concordia.
 Slonecker, J. G., Topeka.
 Smith, Charles Blood, Topeka.
 Smith, Charles W., Stockton.

KENTUCKY.

Basikin, John B., Louisville.
 Berry, W. Alvin, Paducah.
 Booth, Percy N., Louisville.
 Bullitt, William Marshall, Louisville.
 Crawford, William W., Louisville.
 Hieatt, Clarence C., Louisville.
 Miller, R. A., Owensboro.
 Moequot, J. D., Paducah.
 Norman, J. V., Louisville.
 Pirtle, James S., Louisville.
 Reed, William M., Paducah.
 Rouse, Shelley D., Covington.
 Simmons, Robert C., Covington.
 Thomas, R. C. F., Bowling Green.
 Thomas, Thomas W., Bowling Green.
 Trabue, Edmund F., Louisville.

LOUISIANA.

Dart, Henry P., Jr., New Orleans.
 Farrar, Edgar H., New Orleans.
 Florance, Ernest T., New Orleans.
 Hart, W. O., New Orleans.
 Merrick, Edwin T., New Orleans.
 Rosen, Charles, New Orleans.
 Tullis, R. L., Baton Rouge.

MAINE.

Dyer, Isaac W., Portland.
 Morrill, John A., Auburn.
 Walz, W. E., Bangor.

MARYLAND.

Bowers, James W., Jr., Baltimore.
 Dawkins, Walter I., Baltimore.
 France, Joseph C., Baltimore.
 Hinkley, John, Baltimore.
 Kemp, W. Thomas, Baltimore.
 Mackenzie, Thomas, Baltimore.
 Stockbridge, Henry, Baltimore.
 Turner, Frank G., Baltimore.
 Whitelock, George, Baltimore.

MASSACHUSETTS.

Bailey, Hollis R., Boston.
 Baker, Harvey H., Boston.
 Barnes, Jonathan, Springfield.
 DeCourcy, Charles A., Boston.
 Hale, Richard W., Boston.
 Niles, William H., Lynn.
 Pound, Roscoe, Cambridge.
 Smith, Fitz-Henry, Jr., Boston.
 Williston, Samuel (Cambridge), Belmont.

MICHIGAN.

Ball, Dan H., Marquette.
 Barlow, Burt E., Coldwater.
 Bates, George W., Detroit.
 Bates, Henry M., Ann Arbor.
 Black, C. P., Lansing.
 Buchanan, Claude R., Grand Rapids.
 Chappell, Fred. L., Kalamazoo.
 Denison, Arthur C., Grand Rapids.
 Durand, Lorenzo T., Saginaw, E. S.
 Goddard, Edwin C., Ann Arbor.
 Harley, Herbert, Manistee.
 January, William L., Detroit.
 Moore, Joseph B., Lansing.
 Ryall, A. H., Escanaba.
 Smith, L. W., Ionia.
 Wilson, Charles M., Grand Rapids.
 Woodruff, Charles M., Detroit.

MINNESOTA.

Briggs, Am G., St. Paul.
 Bright, Alfred H., Minneapolis.
 Brown, Rome G., Minneapolis.
 Buffington, Edwin D., Stillwater.
 Caldwell, Chester L., St. Paul.
 Clapp, Newel H., St. Paul.
 Crane, Jay W., Minneapolis.
 Deutsch, Henry, Minneapolis.
 Farnham, Charles W., St. Paul.
 Frankel, Hiram D., St. Paul.
 Furst, William, Minneapolis.
 Halbert, Clarence W., St. Paul.
 Hallam, Oscar, St. Paul.
 Hanley, Martin Franklin, Minneapolis.
 Kellogg, Frank B., St. Paul.
 Larimore, John A., Minneapolis.
 Lees, Edward, Winona.
 Lewis, Olin B., St. Paul.
 Mason, Alfred F., St. Paul.
 Mercer, Hugh V., Minneapolis.
 Moonan, John, Waseca.
 Paige, James, Minneapolis.
 Severance, Cordenio A., St. Paul.
 Shearer, James D., Minneapolis.

Tiffany, Francis B., St. Paul.
 Vance, W. R., Minneapolis.
 Waite, Edward F., Minneapolis.

MISSISSIPPI.

Green, Marcellus, Jackson.
 Houston, David W., Aberdeen.
 Jacobson, Gabe, Meridian.
 Powell, William H., Canton.
 Shands, A. W., Sardis.
 Somerville, Thomas H., Oxford.
 Stovall, A. T., Okolona.

MISSOURI.

Abbott, A. L., St. Louis.
 Allen, Charles Clafin, St. Louis.
 Ashley, Henry De L., Kansas City.
 Blodgett, Henry W., St. Louis.
 Bryan, P. Taylor, St. Louis.
 Curtis, William S., St. Louis.
 Ellison, Edward D., Kansas City.
 Ferriss, Henry T., St. Louis.
 Grossman, Emanuel M., St. Louis.
 Hinton, Edward W., Columbia.
 Holmes, J. M., St. Louis.
 Judson, Frederick N., St. Louis.
 Lee, John F., St. Louis.
 McBaine, J. P., Columbia.
 Paxton, John G., Kansas City.
 Peters, James W. S., Kansas City.
 Reynolds, Thomas H., Kansas City.
 Robbins, Alexander H., St. Louis.
 Spencer, Selden P., St. Louis.
 Sturdevant, Willard L., St. Louis.
 Taylor, Seneca N., St. Louis.
 Thomas, Wm. O., Kansas City.
 Wagner, Hugh K., St. Louis.
 White, Edward J., Kansas City.
 Williams, James C., Kansas City.

NEBRASKA.

Baxter, Irving F., Omaha.
 Breckenridge, Ralph W., Omaha.
 Conant, Ernest B., Lincoln.
 Fuller, Philip H., Hastings.
 Gurley, Wm., Omaha.
 Hastings, W. G., Lincoln.
 Kennedy, J. A. C., Omaha.
 Letton, Charles B., Lincoln.
 Loomis, N. H., Omaha.
 Paine, Bayard H., Grand Island.
 Rush, Sylvester R., Omaha.
 Stewart, Willard E., Lincoln.
 Montgomery, Carroll S., Omaha.
 McHugh, William D., Omaha.

NEVADA.

Brown, Hugh H., Tonopah.

NEW HAMPSHIRE.

Eastman, Samuel C., Concord.

NEW JERSEY.

Cole, Clarence L., Atlantic City.

NEW MEXICO.

Reid, William C., Roswell.

NEW YORK.

Bacon, Selden, New York.
 Beaman, Middleton, New York.
 Boston, Charles A., New York.
 Brooks, James B., Syracuse.
 Burdick, Francis M., New York.
 Butler, Charles Henry (Washington, D. C.), New York.
 Cruikshank, Alfred B., New York.
 Dexter, Stanley W., New York.
 Estabrook, Henry D., New York.
 Fleischmann, Simon, Buffalo.
 Haskin, Lincoln B., Hempstead.
 Kling, Joseph, New York.
 Mandeville, H. C., Elmira.
 McLean, Donald, New York.
 Parkinson, Thomas I. (Philadelphia, Pa.), New York.
 Smith, Frank Sullivan, New York.
 Taylor, Francis B., Hempstead.
 Terry, Charles Thaddeus, New York.
 Wadhams, Frederick E., Albany.
 Wickersham, George W., (Washington, D. C.), New York.

NORTH CAROLINA.

Bynum, William P., Greensboro.
 Guthrie, T. C., Charlotte.
 Manly, Clement, Winston-Salem.
 Skinner, Harry, Greenville.

NORTH DAKOTA.

Bronson, Harrison A., Grand Forks.
 Cooley, Roger W., Grand Forks.
 Greene, John E., Minot.
 Henry, R. L., Jr., Grand Forks.

OHIO.

Flory, Walter L., Cleveland.
 Henderson, D. C., Lima.
 James, Eldon R., Cincinnati.
 James, Francis B., Cincinnati.

Kibler, Edward, Newark.
 Knight, Walter A., Cincinnati.
 Rogers, William P., Cincinnati.
 Southworth, Constant, Cincinnati.
 Taft, Frederick L., Cleveland.

OKLAHOMA.

Blair, Robert F., Wagoner.
 Bunn, Clinton O., Oklahoma City.
 Galbraith, Clinton A., Ada.
 Keaton, J. R., Oklahoma City.
 Kleinschmidt, R. A., Oklahoma City.
 McDougal, D. A., Sapulpa.
 Ready, J. H., Oklahoma City.
 Russell, S. H., Ardmore.
 Wells, Frank, Oklahoma City.
 Wilson, W. F., Oklahoma City.

PENNSYLVANIA.

Abbott, Edwin M., Philadelphia.
 Clement, Charles M., Sunbury.
 Fisher, William Righter, Philadelphia.
 Hon-el, W. U., Lancaster.
 Kane, Francis Fisher, Philadelphia.
 Kready, B. Frank, Lancaster.
 Lamberton, James M., Harrisburg.
 Lewis, W. Draper, Philadelphia.
 Moorehead, Wm. S., Pittsburgh.
 Moorhead, Forest G., Beaver.
 Smith, Walter George, Philadelphia.
 Smithers, William W., Philadelphia.
 Staake, William H., Philadelphia.
 Swearingen, J. M., Pittsburgh.
 Thompson, A. M., Pittsburgh.
 Turner, William Jay, Philadelphia.
 Whitlock, Henry C., Philadelphia.
 Zimmerman, S. Ralph, Lancaster.

PORTO RICO.

Rodriguez-Serra, Manuel, San Juan.
 Toro, Emilio del, San Juan.

RHODE ISLAND.

Eaton, Amasa M., Providence.
 Jenckes, Thomas A., Providence.

SOUTH CAROLINA.

Mordecai, T. Moultrie, Charleston.
 Willcox, P. Alstin, Florence.

SOUTH DAKOTA.

Bruell, Wm. F., Redfield.
 Cherry, U. S. G., Sioux Falls.
 Gardner, A. K., Huron.

Issenhuth, William, Redfield.
Taylor, Alva E., Huron.
Teigen, Tore, Sioux Falls.
Voorhees, John H., Sioux Falls.

TENNESSEE.

Barthell, Edward E., Nashville.
Biggs, Albert W., Memphis.
Burch, Charles N., Memphis.
Cavett, W. G., Memphis.
Dickinson, J. M., Nashville.
Fletcher, John Storrs, Chattanooga.
Hughes, Allen, Memphis.
Trimble, James M., Chattanooga.

TEXAS.

Bramlett, W. S., Dallas.
Burgess, William H., El Paso.
Dyer, John L., El Paso.
Estes, W. L., Texarkana.
Glass, Hiram, Austin.
Keller, C. A., San Antonio.
Kleberg, M. E., Galveston.
Mahaffey, J. Q., Texarkana.
McLaurin, Lauch, Austin.
Sauer, Robert E. Lee, Dallas.
Street, Robert G., Galveston.
Williamson, J. D., Waco.

VERMONT.

Batchelder, Wallace, Bethel.
Hagan, Geo. M., St. Albans.
Webber, Marville C., Rutland.
Young, George B., Newport.

VIRGINIA.

Caton, James R., Alexandria.
Cocke, Lucian H., Roanoke.
Griffin, S., Bedford City.
Hughes, Robert M., Norfolk.
Mamie, Eugene C., Richmond.
Patterson, A. W., Richmond.
Patterson, S. S. P., Richmond.
Shelton, Thomas Wall, Norfolk.
Smith, Willis B., Richmond.
Tucker, Henry St. George, Lexington.

WASHINGTON.

Condon, John T., Seattle.
Shepard, Charles E., Seattle.

WEST VIRGINIA.

Ogden, Howard N., Fairmont.
Smith, Harvey F., Clarksburg.

Sommerville, J. B., Wheeling.
Vandervort, James W., Parkersburg.

WISCONSIN.

Aarons, Charles L., Milwaukee.
Babb, Max W., Milwaukee.
Backus, Augustus C., Milwaukee.
Bagley, William R., Madison.
Baker, Norman L., Milwaukee.
Barry, Michael, Phillips.
Black, W. E., Milwaukee.
Blake, Chauncey E., Milwaukee.
Bloodgood, Francis, Jr., Milwaukee.
Bloodgood, Wheeler P., Milwaukee.
Boesel, F. T., Milwaukee.
Bohmrich, Louis G., Milwaukee.
Bottensek, John, Appleton.
Bradford, Francis S., Appleton.
Brown, Neal, Wausau.
Carbys, J. O., Milwaukee.
Churchill, W. H., Milwaukee.
Eastman, E. C., Marinette.
Ela, Emerson, Madison.
Eschweiler, Franz, Milwaukee.
Fawcett, Charles F., Milwaukee.
Fish, Irving A., Milwaukee.
Freeman, Robert R., Milwaukee.
Friend, Charles, Milwaukee.
Fritz, Oscar M., Milwaukee.
Frost, Edward W., Milwaukee.
Furlong, William E., Milwaukee.
Gauerke, John W., Green Bay.
Geiger, Ferdinand A., Milwaukee.
Geilfuss, Carl F., Milwaukee.
Gill, A. D., Mauston.
Gilmore, E. A., Madison.
Gilson, Norman S., Fond du Lac.
Glicksman, Nathan, Milwaukee.
Goff, Guy D., Milwaukee.
Goggins, Bernard R., Grand Rapids.
Green Harrison S., Milwaukee.
Halsey, Lawrence W., Milwaukee.
Hammersley, Charles E., Milwaukee.
Hannan, Timothy J., Milwaukee.
Hanson, Frank H., Mauston.
Harper, John F., Milwaukee.
Hayes, William A., Milwaukee.
Henlock, Daniel J., Waukesha.
Henning, Edw. J., Milwaukee.
Houghton, Frank W., Milwaukee.
Hoyt, Frank M., Milwaukee.
Hurley, Michael A., Wausau.
Jenkins, James G., Milwaukee.
Kaumheimer, Wm., Milwaukee.
Kellogg, Harry L., Milwaukee.

| | |
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| Kemper, Jackson B., Milwaukee. | Poss, Benjamin, Milwaukee. |
| Kittell, John A., Green Bay. | Quarles, Joseph V., Milwaukee. |
| Lines, Geo., Milwaukee. | Richards, Harry S., Madison. |
| Lorenzen, Ernest G. (New York, N. Y.), Madison. | Rix, C. B., Milwaukee. |
| Ludwig, John C., Milwaukee. | Robinson, N. S., Milwaukee. |
| Lysck, Martin L., Juneau. | Sanborn, John B., Madison. |
| McClary, Rollin B., Milwaukee. | Scanlan, Charles M., Milwaukee. |
| Martin, Charles D., Milwaukee. | Scheiber, Frederick, Milwaukee. |
| Mason, Vroman, Madison. | Schoellkopf, Henry, Milwaukee. |
| Matheson, Alexander E., Janesville. | Seaman, William H., Sheboygan. |
| Maxon, Glenway, Milwaukee. | Stafford, W. H., Chippewa Falls. |
| McConnell, John E., La Crosse. | Stebbins, Byron H., Madison. |
| McMillan, John W., Milwaukee. | Stevens, E. Ray, Madison. |
| Monat, Malcolm O., Janesville. | Stevens, J. C., Jr., Milwaukee. |
| Monroe, Charles E., Milwaukee. | Stewart, Calvin, Kenosha. |
| Morris, Charles M., Milwaukee. | Swan, George Brewster, Beaver Dam. |
| Morsell, A. L., Milwaukee. | Teall, Fred. A., Milwaukee. |
| Morton, George E., Milwaukee. | Thompson, Charles S., Milwaukee. |
| Naber, Emil H., Mayville. | Turner, W. J., Milwaukee. |
| Nash, Archie L., Manitowoc. | Umbreit, A. C., Milwaukee. |
| Nash, Lyman J., Manitowoc. | Van Dyke, William D., Milwaukee. |
| Nemmers, E. P., Milwaukee. | Walker, M. E., Racine. |
| North, Jerome R., Green Bay. | Wehe, Waldemar C., Milwaukee. |
| Noyes, Geo. H., Milwaukee. | Whitehead, John M., Janesville. |
| O'Connor, Geo. E., Eagle River. | Widule, George C., Milwaukee. |
| O'Connor, James L., Milwaukee. | Wilcox, Roy P., Eau Claire. |
| Ogden, Lewis M., Milwaukee. | Williams, Orren T., Milwaukee. |
| Olin, John M., Madison. | Winkler, Frederick C., Milwaukee. |
| Park, Byron B., Stevens Point. | Wood, Edgar L., Milwaukee. |
| Pedrick, Samuel M., Ripon. | Wood, John J., Jr., Berlin. |
| Peres, Thomas Jefferson, Milwaukee. | |

Total, 558.

DELEGATES

FROM

STATE AND LOCAL BAR ASSOCIATIONS

1912.

ALABAMA STATE BAR ASSOCIATION.

JOHN PELHAM Anniston.
Z. T. RUDOLPH Birmingham.
NORVELLE R. LEIGH, JR. Mobile.

ARIZONA BAR ASSOCIATION.

PAUL BURKS Prescott.
E. E. ELLINWOOD Bisbee.

COLORADO BAR ASSOCIATION.

CASS E. HERRINGTON Denver.
HARRY E. KELLY Denver.
GEORGE C. MANLY Denver.
HUGH MCLEAN Denver.
JOHN D. FLEMING Boulder.

BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA.

HENRY E. DAVIS Washington.
H. PRESCOTT GATLEY Washington.
FULTON LEWIS Washington.

BAR ASSOCIATION OF STATE OF KANSAS.

A. M. KEENE Fort Scott.
WM. EASTON HUTCHISON Garden City.
WM. OSMOND Great Bend.

KENTUCKY STATE BAR ASSOCIATION.

ROBERT H. WINN Mount Sterling.
REUBEN A. MILLER Owensboro.
J. VAN NORMAN Louisville.

MICHIGAN STATE BAR ASSOCIATION.

BURT E. BARLOW Coldwater.
HENRY M. BATES Ann Arbor.
L. T. DURAND Saginaw.

MISSISSIPPI STATE BAR ASSOCIATION.

| | |
|----------------------|------------|
| GEO. ANDERSON | Vicksburg. |
| R. F. REED | Natchez. |
| R. H. THOMPSON | Jackson. |

ALTERNATES.

| | |
|---------------------|---------------|
| H. B. GREAVES | Canton. |
| O. G. JOHNSON | Friars Point. |
| A. T. STOVALL | Okolona. |

MISSOURI BAR ASSOCIATION.

| | |
|----------------------|--------------|
| JOHN T. BARKER | La Plata. |
| J. J. VINEYARD | Kansas City. |
| E. J. WHITE | Kansas City. |

NEVADA BAR ASSOCIATION.

| | |
|----------------------|--------------|
| L. G. CAMPBELL | Winnemucca. |
| KEY PITTMAN | Tonopah. |
| SAM PLATT | Carson City. |

NEW YORK STATE BAR ASSOCIATION.

| | |
|----------------------------|-----------|
| SIMON FLEISCHMANN | Buffalo. |
| CHAS. A. BOSTON | New York. |
| ALFRED B. CRUIKSHANK | New York. |

ALTERNATES.

| | |
|-------------------------|-----------|
| WM. D. GUTHERIE | New York. |
| ALBERT HESSBERG | Albany. |
| CUTHBERT W. POUND | Lockport. |

NORTH CAROLINA BAR ASSOCIATION.

| | |
|----------------------|-------------|
| THOS. W. DAVIS | Wilmington. |
| CLEMENT MANLY | Winston. |
| HARRY SKINNER | Greenville. |

ALTERNATES.

| | |
|---------------------------|------------|
| ALBERT L. COX | Asheville. |
| THOS. S. ROLLINS | Raleigh. |
| CHAS. W. TILLET, JR. | Charlotte. |

BAR ASSOCIATION OF NORTH DAKOTA.

| | |
|------------------------|--------------|
| ROBERT H. BOSARD | Minot. |
| ANDREW A. BRUCE | Grand Forks. |
| N. C. YOUNG | Fargo. |

OKLAHOMA STATE BAR ASSOCIATION.

| | |
|---------------------|----------------|
| C. B. AMES | Oklahoma City. |
| J. H. BURFORD | Guthrie. |
| P. C. WEST | Muskogee. |

ALTERNATES.

| | |
|--------------------|------------|
| R. BOND | Chickasha. |
| J. G. RALLS | Atoka. |
| P. C. SIMONS | Enid. |

PENNSYLVANIA BAR ASSOCIATION.

| | |
|-------------------------|---------------|
| EDWIN M. ABBOTT | Philadelphia. |
| THOS. F. BALDRIGE | Holidaysburg. |
| ROBERT RALSTON | Philadelphia. |

ALTERNATES.

| | |
|-----------------------|---------------|
| WM. M. HAYES | West Chester. |
| ROBERT P. SHICK | Philadelphia. |
| W. HENRY SUTTON | Philadelphia. |

SOUTH CAROLINA BAR ASSOCIATION.

| | |
|----------------------|-------------|
| CHRISTIE BONET | Columbia. |
| W. N. GRAYDON | Abbeville. |
| B. HART MOSS | Orangeburg. |

ALTERNATES.

| | |
|----------------------|------------|
| F. B. GRIER | Greenwood. |
| JO-BERRY LYLES | Columbia. |
| P. A. WILLCOX | Florence. |

SOUTH DAKOTA BAR ASSOCIATION.

| | |
|--------------------------|-----------|
| GEO. N. WILLIAMSON | Aberdeen. |
| WILLIAM ISSENHUTH | Redfield. |
| WILLIAM F. BRUELL | Redfield. |

BAR ASSOCIATION OF TENNESSEE.

| | |
|-----------------------|------------|
| E. E. BARTHELL | Nashville. |
| L. D. SMITH | Knoxville. |
| ROBERT S. YOUNG | Knoxville. |

ALTERNATES.

| | |
|-----------------------|------------|
| CARUTHERS EWING | Memphis. |
| W. D. WRIGHT | Knoxville. |

VERMONT BAR ASSOCIATION.

| | |
|-----------------------|-------------|
| GEO. M. HOGAN | St. Albans. |
| MAX L. POWELL | Burlington. |
| JOHN G. SARGENT | Ludlow. |

WEST VIRGINIA BAR ASSOCIATION.

| | |
|-------------------------|-----------------|
| CHAS. S. DICE | Lewisburg. |
| CHAS. E. HOGG | Morgantown. |
| GEO. POFFENBARGER | Point Pleasant. |

BAR ASSOCIATION OF WISCONSIN.

| | |
|----------------------|----------------|
| T. M. PRIESTLY | Mineral Point. |
| M. E. WALKER | Racine. |
| EDGAR L. WOOD..... | Milwaukee. |

ANNUAL DINNER

The Annual Dinner was held Thursday evening, August 29, 1912, at the Plankinton House, Milwaukee, Wis.

W. U. Hensel, of Pennsylvania, presided.

The speakers were as follows:

J. L. ARCHAMBAULT, K. C., Bâtonnier of the Montreal Bar, of Montreal.

MR. JUSTICE CARTER, of Illinois.

ALBERT L. LEGRAND, of Paris, France.

JOHN ALLEN, of Mississippi.

Three hundred and eleven members and guests were present.

LIST OF PRESIDENTS

1. 1878-79-*JAMES O. BROADHEAD¹.....St. Louis, Missouri.
2. 1879-80-*BENJAMIN H. BRISTOW.....New York, New York.
3. 1880-81-*EDWARD J. PHELPS.....Burlington, Vermont.
4. 1881-82-*CLARKSON N. POTTER².....New York, New York.
5. 1882-83-*ALEXANDER R. LAWTON.....Savannah, Georgia.
6. 1883-84-*CORTLANDT PARKERNewark, New Jersey.
7. 1884-85-*JOHN W. STEVENSON.....Covington, Kentucky.
8. 1885-86-*WILLIAM ALLEN BUTLER....New York, New York.
9. 1886-87-*THOMAS J. SEMMES.....New Orleans, Louisiana.
10. 1887-88-*GEORGE G. WRIGHT.....Des Moines, Iowa.
11. 1888-89-*DAVID DUDLEY FIELD.....New York, New York.
12. 1889-90-*HENRY HITCHCOCKSt. Louis, Missouri.
13. 1890-91-SIMEON E. BALDWIN.....New Haven, Connecticut.
14. 1891-92-JOHN F. DILLON.....New York, New York.
15. 1892-93-*JOHN RANDOLPH TUCKER...Lexington, Virginia.
16. 1893-94-*THOMAS M. COOLEY³.....Ann Arbor, Michigan.
17. 1894-95-*JAMES C. CARTER.....New York, New York.
18. 1895-96-MOORFIELD STOREYBoston, Massachusetts.
19. 1896-97-*JAMES M. WOOLWORTH.....Omaha, Nebraska.
20. 1897-98-*WILLIAM WIRT HOWE.....New Orleans, Louisiana.
21. 1898-99-JOSEPH H. CHOATE⁴.....New York, New York.
22. 1899-1900-*CHARLES F. MANDERSON..Omaha, Nebraska.
23. 1900-1901-EDMUND WETMORENew York, New York.
24. 1901-1902-U. M. ROSE.....Little Rock, Arkansas.
25. 1902-1903-FRANCIS RAWLEPhiladelphia, Pennsylvania.
26. 1903-1904-JAMES HAGERMANSt. Louis, Missouri.
27. 1904-1905-HENRY ST. GEO. TUCKER..Lexington, Virginia.
28. 1905-1906-GEORGE R. PECK.....Chicago, Illinois.
29. 1906-1907-ALTON B. PARKER.....New York, New York.
30. 1907-1908-J. M. DICKINSON.....Chicago, Illinois.
31. 1908-1909-FREDERICK W. LEHMANN...St. Louis, Missouri.
32. 1909-1910-CHARLES F. LINBY.....Portland, Maine.
33. 1910-1911-EDGAR H. FARRAR.....New Orleans, Louisiana.
34. 1911-1912-STEPHEN S. GREGORYChicago, Illinois.
35. 1912-1913-FRANK B. KELLOGG.....St. Paul, Minnesota.

* Deceased.

¹ At the Conference for organizing the Association in 1878, John H. B. Latrobe, of Maryland, was elected Temporary Chairman, and when the organization was completed, Benjamin H. Bristow, of Kentucky, was elected President of the Conference.

² In consequence of the death of Clarkson N. Potter, Francis Kernan, of New York, presided and prepared and delivered the President's Address in 1882.

³ In consequence of the illness of Thomas M. Cooley, Samuel F. Hunt, of Ohio, presided and read the President's Address prepared by Judge Cooley in 1894.

⁴ In consequence of the absence of Joseph H. Choate, as Ambassador to Great Britain, Charles F. Manderon, of Nebraska, presided and prepared and delivered the President's Address in 1899.

LIST OF SECRETARIES.

1. 1878-93-*EDWARD OTIS HINKLEY¹.... Baltimore, Maryland.
2. 1893-1909-JOHN HINKLEY² Baltimore, Maryland.
3. 1909- GEORGE WHITELOCK Baltimore, Maryland.

LIST OF ASSISTANT SECRETARIES

1. 1909-1910-ALBERT C. RITCHIE. Baltimore, Maryland.
2. 1910- W. THOMAS KEMP. Baltimore, Maryland.

LIST OF TREASURERS.

1. 1878-1902-FRANCIS RAWLE..... Philadelphia, Penna.
2. 1902- FREDERICK E. WADHAMS... Albany, New York.

* Deceased.

¹In 1878, Francis Rawle, of Pennsylvania, and Isaac Grant Thompson, of New York, acted as temporary Secretaries and as Secretaries of the Conference. In 1886, Edward Otis Hinkley being absent, Walter George Smith, of Pennsylvania, acted as Secretary *pro tempore*.

²In 1898, John Hinkley being absent, George P. Wanty, of Michigan, acted as Secretary *pro tempore*.

LIST OF EXECUTIVE COMMITTEE.

1. 1878-87-*LUKE P. POLAND.....St. Johnsbury, Vermont.
2. 1878-88-SIMEON E. BALDWIN¹.....New Haven, Connecticut.
3. 1878-80-*WILLIAM A. FISHER.....Baltimore, Maryland.
4. 1880-85-*WILLIAM ALLEN BUTLER...New York, New York.
5. 1885-90-*CHARLES C. BONNEY¹.....Chicago, Illinois.
6. 1887-96-*GEORGE A. MERCER.....Savannah, Georgia.
7. 1888-90-*JOHN RANDOLPH TUCKER...Lexington, Virginia.
8. 1890-91-*WILLIAM P. WELLS.....Detroit, Michigan.
9. 1890-99-ALFRED HEMENWAYBoston, Massachusetts.
10. 1891-95-*BRADLEY G. SCHLEY.....Milwaukee, Wisconsin.
11. 1895-99-CHARLES CLAFLIN ALLEN....St. Louis, Missouri.
12. 1896-97-*WILLIAM WIRT HOWE.....New Orleans, Louisiana.
13. 1897-1900-CHARLES NOBLE GREGORY..Madison, Wisconsin.
14. 1899-1900-EDMUND WETMORENew York, New York.
15. 1899-1901-U. M. ROSE.....Little Rock, Arkansas.
16. 1899-1902-WILLIAM A. KETCHAM....Indianapolis, Indiana.
17. 1899-1902-HENRY ST. GEORGE TUCKER..Lexington, Virginia.
18. 1900-1903-RODNEY A. MERCUR.....Towanda, Pennsylvania.
19. 1900-1903-CHARLES F. LIBBY.....Portland, Maine.
20. 1901-1903-JAMES HAGERMANSt. Louis, Missouri.
21. 1902-1905-P. W. MELDRIM.....Savannah, Georgia.
22. 1902-1905-PLATT ROGERSDenver, Colorado.
23. 1903-1906-M. F. DICKINSON.....Boston, Massachusetts.
24. 1903-1906-THEODORE S. GARNETT....Norfolk, Virginia.
25. 1903-1906-WILLIAM P. BREEN.....Fort Wayne, Indiana.
26. 1905-1908-CHARLES MONBOELos Angeles, California.
27. 1905-1908-RALPH W. BRECKENRIDGE..Omaha, Nebraska.
28. 1906-1909-CHARLES F. LIBBY.....Portland, Maine.
29. 1906-1909-WALTER GEORGE SMITH....Philadelphia, Pennsylvania.
30. 1906-1909-ROME G. BROWN.....Minneapolis, Minnesota.
31. 1908-1911-WILLIAM O. HARTNew Orleans, Louisiana.
32. 1908-1911-CHARLES HENRY BUTLER...New York, New York.
33. 1909-1912-JOHN HINKLEYBaltimore, Maryland.
34. 1909-1912-RALPH W. BRECKENRIDGE..Omaha, Nebraska.
35. 1909-1912-LYNN HELMLos Angeles, California.
36. 1911- HOLLIS R. BAILEY.....Boston, Massachusetts.
37. 1911- ALDIS B. BROWNE.....Washington, D. C.
38. 1912- WILLIAM H. BURGESSEl Paso, Texas.
39. 1912- JOHN H. VOORHEESSioux Falls, South Dakota.
40. 1912- WILLIAM H. STAAKE.....Philadelphia, Pennsylvania.

* Deceased.

¹In 1888, at the first meeting of the Executive Committee after the adjournment of the Association, Simeon E. Baldwin resigned, and Charles C. Bonney was chosen to fill the vacancy under By-Law X.

LIST OF PLACES OF MEETING AND ATTENDANCE.

| Meeting. | Year. | Date. | Place. | Attendance. |
|----------|----------|------------------------|--|-------------|
| 1..... | 1878.... | Aug. 21, 22..... | Saratoga Springs, N. Y..... | 75 |
| 2..... | 1879.... | Aug. 20, 21..... | Saratoga Springs, N. Y.... (no record) | |
| 3..... | 1880.... | Aug. 18, 19, 20..... | Saratoga Springs, N. Y..... | 97 |
| 4..... | 1881.... | Aug. 17, 18, 19..... | Saratoga Springs, N. Y..... | 124 |
| 5..... | 1882.... | Aug. 8, 9, 10, 11.... | Saratoga Springs, N. Y..... | 107 |
| 6..... | 1883.... | Aug. 22, 23, 24..... | Saratoga Springs, N. Y..... | 120 |
| 7..... | 1884.... | Aug. 20, 21, 22..... | Saratoga Springs, N. Y..... | 108 |
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| 11..... | 1888.... | Aug. 15, 16, 17..... | Saratoga Springs, N. Y..... | 121 |
| 12..... | 1889.... | Aug. 28, 29, 30..... | Chicago, Ill. | 158 |
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| 17..... | 1894.... | Aug. 22, 23, 24..... | Saratoga Springs, N. Y..... | 140 |
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| 27..... | 1904.... | Sept. 26, 27, 28..... | St. Louis, Mo. | 451 |
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| 31..... | 1908.... | Aug. 25, 26, 27, 28.. | Seattle, Washington..... | 312 |
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CONSTITUTION

NAME AND OBJECT.

ARTICLE I.—This Association shall be known as “THE AMERICAN BAR ASSOCIATION.” Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the union, uphold the honor of the profession of the law and encourage cordial intercourse among the members of the American Bar.

QUALIFICATIONS FOR MEMBERSHIP.

ARTICLE II.—Any person shall be eligible to membership in this Association who shall be, and shall, for five years next preceding, have been a member in good standing of the Bar of any state, and who shall also be nominated as hereinafter provided.

OFFICERS AND COMMITTEES.

ARTICLE III.—The following officers shall be elected at each Annual Meeting for the year ensuing: A President (the same person shall not be elected President two years in succession); one Vice-President from each state; a Secretary; a Treasurer; a Council, consisting of one member from each state (the Council shall be a Standing Committee on Nominations for office); an Executive Committee, which shall consist of the President, the last ex-President, the Secretary and the Treasurer, all of whom shall be *ex-officio* members, together with five other members, to be chosen by the Association, but no member shall be eligible to such choice more than three years in succession; and the President, and in his absence the ex-President, shall be the Chairman of the committee.¹ There shall be an Assistant Secretary, who shall be elected by the Executive Committee, and shall hold office at their pleasure.²

¹ Amended August 19, 1898, and August 30, 1899.

² Amended August 25, 1909.

The following committees shall be annually appointed by the President for the year ensuing, and shall consist of five members each :

- On Jurisprudence and Law Reform;
- On Judicial Administration and Remedial Procedure;
- On Legal Education and Admissions to the Bar;
- On Commercial Law;
- On International Law;
- On Publications;
- On Grievances;
- On Law Reporting and Digesting;*
- On Patent, Trade-Mark and Copyright Law;*
- On Insurance Law;*
- On Taxation;* and a Committee
- On Uniform State Laws, to consist of one member from each state.†

A majority of those members of any committee, including the Council, who may be present at any meeting of the Association, shall constitute a quorum of such committee for the purpose of such meeting.

The Vice-President for each state, and not less than two other members from such state, to be annually elected, shall constitute a Local Council for such state, to which shall be referred all applications for membership from such state. The Vice-President shall be, *ex-officio*, Chairman of such Council.

A committee of three, of whom the Secretary shall always be one, shall be appointed by the President at each Annual Meeting of the Association, whose duty it shall be to report to the next meeting the names of all members who shall, in the interval, have died, with such notices of them as shall, in the discretion of the committee, be proper.

It shall be the duty of the Vice-President from each state and territory to report the deaths of members within the same to the said committee.

* Amended August 29, 1895.

* Amended August 31, 1906.

† Amended August 30, 1899.

† Amended August 28, 1903.

* Amended September 28, 1904.

ELECTION OF MEMBERS.

ARTICLE IV.—All nominations for membership shall be made by the Local Council of the state to the Bar of which the persons nominated belong. Such nominations must be transmitted in writing to the Chairman of the General Council, and approved by the Council, on vote by ballot.

The General Council may also nominate members from states having no Local Council, and at the Annual Meeting of the Association, in the absence of all members of the Local Council of any state; *Provided*, That no nomination shall be considered by the General Council, unless accompanied by a statement in writing by at least three members of the Association from the same state with the person nominated, or, in their absence, by members from a neighboring state or states, to the effect that the person nominated has the qualifications required by the Constitution and desires to become a member of the Association, and recommending his admission as a member.

All nominations thus made or approved shall be reported by the Council to the Association, and all whose names are reported shall thereupon become members of the Association; *Provided*, That if any member demand a vote upon any name thus reported, the Association shall thereupon vote thereon by ballot.

Several nominees, if from the same state, may be voted for upon the same ballot; and in such case placing the word "No" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. Five negative votes shall suffice to defeat an election.

During the period between the Annual Meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council of any state.

ARTICLE V.—All members of the Conference adopting the Constitution, and all persons elected by them upon the recommendation of the committee of five appointed by such Conference, shall become members of the Association upon payment of the annual dues for the current year herein provided for.

BY-LAWS.

ARTICLE VI.—By-laws may be adopted at any Annual Meeting of the Association by a majority of the members present. It shall be the duty of the Executive Committee, without delay, to adopt suitable By-laws, which shall be in force until rescinded by the Association.

DUES.

ARTICLE VII.—Each member shall pay five dollars to the Treasurer as annual dues, and no person shall be qualified to exercise any privilege of membership who is in default. Such dues shall be payable, and the payment thereof enforced, as may be provided by the By-laws. Members shall be entitled to receive all publications of the Association free of charge.

ANNUAL ADDRESS.

ARTICLE VIII.—The President shall open each Annual Meeting of the Association with an address, in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several states and by Congress during the preceding year. It shall be the duty of the member of the General Council from each state to report to the President, on or before the first day of May, annually, any such legislation in his state.

ANNUAL MEETINGS.

ARTICLE IX.—This Association shall meet annually, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

AMENDMENTS.

ARTICLE X.—This Constitution may be altered or amended by a vote of three-fourths of the members present at any Annual Meeting, but no such change shall be made at any meeting at which less than thirty members are present.

CONSTRUCTION.

ARTICLE XI.—The word "*state*," whenever used in this Constitution, shall be deemed to be equivalent to *state*, *territory*, the *District of Columbia* and the *insular and other possessions of the United States*.^{*}

^{*} Amended August 25, 1909.

BY-LAWS

MEETING OF THE ASSOCIATION.

I.—The Executive Committee, at its first meeting after each Annual Meeting, shall select some person to make an address at the next Annual Meeting, and not exceeding six members of the Association to read papers.

II.—The order of exercises at the Annual Meeting shall be as follows:

- (a) Opening Address of the President.
- (b) Nominations and Election of Members.
- (c) Election of the General Council.
- (d) Reports of Secretary and Treasurer.
- (e) Report of Executive Committee.
- (f) Reports of Standing Committees.
 - On Jurisprudence and Law Reform;
 - On Judicial Administration and Remedial Procedure;
 - On Legal Education and Admissions to the Bar;
 - On Commercial Law;
 - On International Law;
 - On Publications;
 - On Grievances;
 - On Law Reporting and Digesting;
 - On Patent, Trade-Mark and Copyright Law;¹
 - On Insurance Law;¹
 - On Taxation;²
 - On Uniform State Laws.¹
- (g) Reports of Special Committees.
- (h) The Nomination of Officers.
- (i) Miscellaneous Business.
- (j) The Election of Officers.

¹ Amended August 23, 1905.

² Amended August 31, 1906.

The address, to be delivered by a person invited by the Executive Committee, shall be made at such session of the Annual Meeting as shall be designated by the Executive Committee.*

The reading and delivering of essays and papers shall be on the same day, or at such other time as the Executive Committee may determine.

III.—No person shall speak more than ten minutes at a time or more than twice on one subject.

A stenographer shall be employed at each Annual Meeting.

All resolutions except those of a formal character shall be referred by the Chair on presentation, without debate, to an appropriate committee; and no resolution which is not favorably reported by the committee to which it is referred, or adopted by the Association, shall be published in the proceedings of the meetings.

IV.—Each State Bar Association may annually appoint delegates, not exceeding three in number, to the next meeting of the Association. In states where no State Bar Association exists, any City or County Bar Association may appoint such delegates, not exceeding two in number. Such delegates shall be entitled to all the privileges of membership at and during the said meeting.

V.—At any of the meetings of the Association, members of the Bar of any foreign country or of any state who are not members of the Association may be admitted to the privileges of the floor during such meeting.

VI.—All papers read before the Association shall be lodged with the Secretary and become the property of the Association, and shall not be published without the consent of the Committee on Publications, unless by the express direction of the Executive Committee except as herein otherwise provided for.* The Annual Address of the President, and such reports of committees, papers and proceedings at the Annual Meeting shall be printed, as the Committee on Publications shall order.*

Extra copies of reports, addresses and papers read before the Association may be printed by the Committee on Publications for

* Amended August, 1910.

* Amended August 25, 1908.

* Amended August 27, 1912.

* Amended August 25, 1908.

the use of their authors, not exceeding two hundred copies for each of such authors.

The Secretary and the Chairman of the Executive Committee shall endeavor to arrange with the Smithsonian Institution, or otherwise, a system of exchanges by which the *Transactions* can be annually exchanged with those of other associations in foreign countries interested in jurisprudence or governmental affairs; and the Secretary shall exchange the *Transactions* with those of the State and Local Bar Associations; and all books thus acquired shall be bound and deposited in the charge of the New York City Bar Association, subject to the call of this Association, if it ever desires to withdraw or consult them, if the former Association agrees to such deposit.

The Secretary shall send one copy of the Report of the proceedings of this Association to the President of the United States, and to each of the Judges of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Library of Congress, and the Library of the Supreme Court thereof, and to the Governor, and to the Chief Judge of the court of last resort of each state, and to the State Librarian thereof, and to all public law libraries, and other principal public and college libraries in the United States, and to such other persons or bodies as the Executive Committee may direct.

No resolution complimentary to an officer or member for any service performed, paper read or address delivered shall be considered by the Association.

OFFICERS AND COMMITTEES.

VII.—The terms of office of all officers elected at any Annual Meeting shall commence at the adjournment of such meeting, except the Council, whose term of office shall commence immediately upon their election.

VIII.—The President shall appoint all committees, except the Committee on Publications, within thirty days after the Annual Meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed. The Committee on Publications shall be appointed on the first day of each meeting.

There shall be appointed annually by the President a committee to be known at the Reception Committee, consisting of fifteen members of the Association, whose duty it shall be to attend immediately before and at the opening of the first day's session of the meeting to receive members and delegates and introduce them to each other, with a view of making them better acquainted and establishing a spirit of good fellowship among them.'

IX.—The Treasurer's Report shall be examined and audited annually, before its presentation to the Association, by two members to be appointed by the Chairman of the Executive Committee.

X.—The Council and all standing committees shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such hour as their respective Chairman shall appoint. If at any Annual Meeting of the Association any member of any committee shall be absent, the vacancy may be filled by the members of the committee present.

The Secretary of the Association shall be the Secretary of the Council.

XI.—The Committee on Publications shall also meet within one month after each Annual Meeting, at such time and place as the Chairman shall appoint.

XII.—Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee, during the interval between the Annual Meetings of the Association, shall be paid by the Treasurer, on the approval and by the order of the Executive Committee, out of such appropriation as to the Executive Committee may seem necessary in each case, on previous application in advance of its expenditure.

All committees may have their reports printed by the Secretary before the Annual Meeting of the Association; and any

'Amended August 23, 1905.

such report, containing any recommendation for action on the part of the Association, shall be printed, together with a draft of bill embodying the views of the committee, whenever legislation shall be proposed. Such report shall be distributed by mail by the Secretary to all the members of the Association at least fifteen days before the Annual Meeting at which such report is proposed to be submitted. No legislation shall be recommended or approved unless there has been a report of a committee, either in favor of or against the same, and unless such legislation be approved by a two-thirds vote of the members of the Association present.* Where the report of a committee has been printed it shall not be read before a meeting of the Association unless directed by a majority vote of those present at the meeting, but the Chairman of the committee shall state the purport and substance thereof to the meeting.*

It shall be the duty of each Vice-President and member of the General Council of this Association to endeavor to procure the enactment by the legislature of their state of each and every law recommended by the Association, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill, when there shall be such draft; and whenever this Association shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association, with the request of this Association that such State Bar Association shall co-operate with the local Vice-President and member of the General Council of this Association in having a bill introduced in the legislature of its state containing the subject matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every state where there is no State Bar Association, a copy of such resolution with a similar request shall be sent to the President of the Bar Association of the principal city in such state; and in every instance where the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

* Amended August 29, 1902, and August 31, 1906.

* Amended September 1, 1910.

ANNUAL DUES.

XIII.—The Annual Dues shall be payable at the Annual Meeting in advance. If any member neglects to pay his yearly dues on or before June 1 following the Annual Meeting, it shall be the duty of the Treasurer to serve upon him by mail a copy of this By-law and notice that unless the dues are paid within one month thereafter, the default will be reported to the Executive Committee, which may, without further notice, cause the name of such member to be stricken from the rolls for non-payment of dues, and his membership and all rights in respect thereto will thereupon cease.¹⁰

A member who has been dropped from the roll for non-payment of dues may be restored to membership by the Executive Committee upon the payment of such back dues as the committee shall think equitable.¹¹ *Provided*, such restoration shall be recommended by a member of the Local Council of his state, or in their absence, at an Annual Meeting, by any two members of the Association.

XIV.—A Section of the Association, to be known as the Section of Legal Education,¹² is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

Its object shall be the discussion of methods of legal education, and it may make recommendations to the Association, which shall be referred by the Association to the Committee on Legal Education.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section, and persons not eligible for membership in the Association, but who are engaged in teaching law, may be admitted to the privilege of the floor at any meeting of the Section, by vote of the Section.

¹⁰ Amended August 29, 1911.

¹¹ Amended September 28, 1904.

¹² Amended August 30, 1893.

The Section shall be organized by the appointment of a Chairman and Secretary at its first session; and a Chairman and Secretary shall thereafter be elected annually by the Section.

A Section of the Association, to be known as the Section of Patent, Trade-Mark and Copyright Law," is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

Its object shall be to discuss the subject of the law and practice relating to patents, trade-marks and copyrights. It may report to the Association; and matters relating to patents, trade-marks and copyrights may be referred to it.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association who desire may enroll themselves as members of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary by the Section, and a Chairman and Secretary shall be thereafter annually elected by the Section for the year commencing upon the final adjournment of its meeting.

XV.¹⁴—1. An auxiliary body of the Association, to be known as the "Comparative Law Bureau" is hereby established, which shall meet annually in connection with the meeting of the Association, but not during hours as the Association is in session.

2. Its objects shall be the presentation and discussion of methods whereby important laws of foreign nations affecting the science of jurisprudence may be brought to the attention of American lawyers and institutions of learning, and become available in the general study of private law.

3. The membership of the Bureau shall consist of the members of this Association who are in good standing and such other bodies corporate or unincorporated associations and individuals as the Bureau may admit.

4. No dues or assessments shall be chargeable to individual

¹³ Amended August 30, 1899.

¹⁴ Adopted August 28, 1907.

members of this Association, but all others shall be subject to such as may be prescribed by the Bureau.

5. The Bureau shall be organized by the selection of a Director, Secretary and Treasurer who shall be members of this Association in good standing, and five Managers at its first session who with four members of this Association to be appointed by the President, shall compose a Board of Managers of twelve, which shall be renewed annually and have entire management and control of the Bureau and its affairs until its successors shall have been duly qualified by acceptance, subject to the advance direction and advice of this Association. The Bureau shall have power to adopt regulations for conducting its affairs in accordance with the purpose of its creation, but not in conflict with the Constitution, By-laws or any action or direction of this Association.

6. The financial liability of this Association concerning said Bureau, shall be limited to such appropriations as may be made for it from time to time and shall cease in all respects with payment to the Treasurer of the Bureau of the amounts so appropriated.

7. The Board of Managers shall present to this Association an annual report in detail as to work and finances up to the preceding June first, which report shall be printed and distributed among the members fifteen days before the Annual Meeting of this Association, unless this requirement be waived for any particular year by the Executive Committee.

STANDING RULE.¹⁰

At all meetings and dinners of the American Bar Association, the American flag shall be displayed, and the Executive Committee shall see that this rule is carried out.

¹⁰ Adopted August 31, 1906.

OFFICERS

1912-1913.

PRESIDENT.

FRANK B. KELLOGG, *St. Paul, Minn.*

SECRETARY,

GEORGE WHITELOCK, *Baltimore, Maryland.*

TREASURER.

FREDERICK E. WADHAMS, *37 Tweddle Building, Albany, N. Y.*

ASSISTANT SECRETARY,

W. THOMAS KEMP, *1408 Continental Building, Baltimore, Md.*

EXECUTIVE COMMITTEE,

EX OFFICIO.

THE PRESIDENT,

THE SECRETARY,

THE TREASURER,

STEPHEN S. GREGORY,

Chicago, Ill.

ELECTED MEMBERS.

HOLLIS R. BAILEY, *Boston Mass.*

ALDIS B. BROWNE, *Washington, D. C.*

WILLIAM H. BURGESS, *El Paso, Texas.*

JOHN H. VOORHEES, *Sioux Falls, S. D.*

WILLIAM H. STAAKE, *Philadelphia, Pa.*

SECTION OF LEGAL EDUCATION.

WALTER GEORGE SMITH, *Philadelphia, Pennsylvania, Chairman.*

CHARLES M. HEPBURN, *Bloomington, Indiana, Secretary.*

SECTION OF PATENT, TRADE-MARK AND COPYRIGHT LAW.

ROBERT H. PARKINSON, *Chicago, Illinois, Chairman.*

J. NOTA MCGILL, *Washington, District of Columbia, Secretary.*

COMPARATIVE LAW BUREAU.

SIMEON E. BALDWIN, *New Haven, Connecticut, Director.*

WILLIAM W. SMITHERS, *Philadelphia, Pennsylvania, Secretary.*

EUGENE C. MASSIE, *Richmond, Virginia, Treasurer.*

ROBERT P. SHICK, *Philadelphia, Pennsylvania, Assistant Secretary.*

ASSOCIATION OF AMERICAN LAW SCHOOLS.

HENRY M. BATES, *University of Michigan Law School, Ann Arbor, Mich., President.*

WALTER W. COOK, *University of Chicago Law School, Chicago, Ill., Secretary-Treasurer.*

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

CHARLES THADDEUS TERRY, *New York City, President.*

JOHN HINKLEY, *Baltimore, Maryland, Vice-President.*

CLARENCE N. WOOLLEY, *Providence, Rhode Island, Secretary.*

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AMERICAN INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY.

ORRIN N. CARTER, *Chicago, Illinois, President.*

EUGENE A. GILMORE, *Madison, Wisconsin, Secretary.*

GENERAL COUNCIL

| State. | Name. | Residence. |
|------------------------|------------------------|-------------------|
| ALABAMA | EMMETT O'NEAL | Florence. |
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| ARIZONA | E. E. ELLINWOOD | Bisbee. |
| ARKANSAS | ASHLEY COCKRELL | Little Rock. |
| CALIFORNIA | GEORGE J. DENIS | Los Angeles. |
| COLORADO | HENRY C. HALL | Colorado Springs. |
| CONNECTICUT | E. P. ARVINE | New Haven. |
| DELAWARE | BENJAMIN NIELDS | Wilmington. |
| DISTRICT OF COLUMBIA.. | F. A. FENNING | Washington. |
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| GEORGIA | T. A. HAMMOND | Atlanta. |
| HAWAII TERRITORY | DAVID L. WITHINGTON.. | Honolulu. |
| IDAHO | FREMONT WOOD | Boise. |
| ILLINOIS | GEORGE T. PAGE | Peoria. |
| INDIANA | DANIEL FRASER | Fowler. |
| IOWA | EDW. M. CARR | Manchester. |
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| KENTUCKY | JAMES S. PIRTLE | Louisville. |
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| MARYLAND | HENRY STOCKBRIDGE .. | Baltimore. |
| MASSACHUSETTS | FITZ-HENRY SMITH, Jr.. | Boston. |
| MICHIGAN | WILLIAM L. JANUARY .. | Detroit. |
| MINNESOTA | OSCAR HALLAM | St. Paul. |
| MISSISSIPPI | JOHN ALLEN | Tupelo. |
| MISSOURI | THOMAS H. REYNOLDS.. | Kansas City. |
| MONTANA | THOMAS J. WALSH | Helena. |
| NEBRASKA | WILLIAM D. MCHUGH .. | Omaha. |
| NEVADA | HUGH H. BROWN | Tonopah. |
| NEW HAMPSHIRE | SAMUEL C. EASTMAN .. | Concord. |
| NEW JERSEY | EDW. Q. KEASBEY | Newark. |
| NEW MEXICO | WILLIAM C. REID | Roswell. |
| NEW YORK | HENRY D. ESTABROOK .. | New York. |
| NORTH CAROLINA | WILLIAM P. BYNUM ... | Greensboro. |
| NORTH DAKOTA | JOHN E. GREENE | Minot. |

| | | |
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| OKLAHOMA | J. R. KEATON | Oklahoma City. |
| OREGON | CHARLES J. SCHNABEL .. | Portland. |
| PENNSYLVANIA | W. U. HENSEL | Lancaster. |
| PORTO RICO | M. RODRIGUEZ-SERRA.... | San Juan. |
| RHODE ISLAND | AMASA M. EATON | Providence. |
| SOUTH CAROLINA | T. M. MORDECAI | Charleston. |
| SOUTH DAKOTA | U. S. G. CHERRY | Sioux Falls. |
| TENNESSEE | CHARLES N. BUECH | Memphis. |
| TEXAS | ROBERT E. LEE SANER.... | Dallas. |
| UTAH | CHARLES S. VARIAN ... | Salt Lake City. |
| VERMONT | WALLACE BATCHELDER .. | Bethel. |
| VIRGINIA | S. GRIFFIN | Bedford City. |
| WASHINGTON | CHAS. E. SHEPARD | Seattle. |
| WEST VIRGINIA | JAMES W. VANDERVOET.. | Parkersburg. |
| WISCONSIN | LYMAN J. NASH | Manitowoc. |
| WYOMING | CHARLES W. BUEDECK .. | Cheyenne. |

VICE-PRESIDENTS
AND
MEMBERS OF LOCAL COUNCILS

ELECTED 1912

ALABAMA.

Vice-President, GEORGE P. HARRISONOpelika.
Local Council, OSCAR R. HUNDLEYBirmingham.
 LAWRENCE COOPERHuntsville.
 HENRY UPSON SIMSBirmingham.
 Z. T. RUDULPHBirmingham.
 JOHN PELHAMMontgomery.

ALASKA TERRITORY.

Vice-President, CHARLES E. CLAYPOOLFairbanks.
Local Council, S. H. REIDFairbanks.
 W. T. BEEKSValdez.

ARIZONA.

Vice-President, JOHN J. HAWKINSPrescott.
Local Council, EDWARD KENTPhoenix.
 JOHN MASON ROSSBisbee.
 ROBERT E. MORRISONPrescott.
 PAUL BURKSPrescott.

ARKANSAS.

Vice-President, JOSEPH M. STAYTONNewport.
Local Council, C. T. COLEMANLittle Rock.
 W. H. ARNOLDTexarkana.
 D. K. HAWTHORNEJonesboro.
 J. F. LOUGHBOROUGHLittle Rock.

CALIFORNIA.

Vice-President, OSCAR A. TRIPPETLos Angeles.
Local Council, FRANK M. PORTERLos Angeles.
 L. W. JUTTENLos Angeles.
 JAMES A. GIBSONLos Angeles.
 CURTIS H. LINDLEYSan Francisco.
 LINDEN L. BOONESan Diego.

COLORADO.

Vice-President, HENRY C. HALL Colorado Springs.
 Local Council, GEORGE C. MANLY Denver.
 ALVA B. ADAMS Pueblo.
 HORACE G. LUNT Colorado Springs
 JAMES W. McCREERY Greeley.
 JOHN D. FLEMING Boulder.

CONNECTICUT.

Vice-President, GEORGE D. WATROUS New Haven.
 Local Council, WILLIAM A. WRIGHT New Haven.
 SEYMOUR C. LOOMIS New Haven.
 GEORGE E. BEERS New Haven.
 EDWIN B. GAGER Derby.
 EDWARD A. HARRIMAN New Haven.

DELAWARE.

Vice-President, EDWARD G. BRADFORD Wilmington.
 Local Council, WILLARD SAULSBURY Wilmington.

DISTRICT OF COLUMBIA.

Vice-President, J. NOTA MCGILL Washington.
 Local Council, HENRY E. DAVIS Washington.
 CHAPIN BROWN Washington.
 MELVILLE CHURCH Washington.
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| <p>Aarons, Charles L., Milwaukee, Wis. Abbey, Charles P., Chicago, Ill. Abbot, Edwin H., Jr., Boston, Mass. Abbot, Edwin Hale, Boston, Mass. Abbot, Everett V., New York, N. Y. Abbott, A. L., St. Louis, Mo. Abbott, Edwin M., Philadelphia, Pa. Abbott, Henry H., New York City. Abbott, Howard S., Minneapolis, Minn. Abbott, Howard T., Duluth, Minn. Abbott, Ira A., Haverhill, Mass. Abbott, Lyman, New York, N. Y. Abbott, William H., Bellingham, Wash. Abele, George W., Boston, Mass. Abert, William Stone, Washington, D. C. Ackerman, Alexander, Macon, Ga. Acklen, J. H., Nashville, Tenn. Adams, Alva B., Pueblo, Col. Adams, Andrew Addison, Indianapolis, Ind. Adams, Charles S., Jacksonville, Fla. Adams, Edward B., Boston, Mass. Adams, Elbridge L., New York, N. Y. Adams, Elmer H., Chicago, Ill. Adams, Frank D., Duluth, Minn. Adams, George A., Salamanca, N. Y. Adams, H. W., Beloit, Wis. Adams, Junius G., Asheville, N. C. Adams, Richard H. T., Jr., Lynchburg, Va. Adams, Samuel B., Savannah, Ga. Adams, St. Clair, New Orleans, La. Adams, Thaddeus A., Charlotte, N. C. Adams, Thomas B., Jacksonville, Fla. Adams, Walter, So. Framingham, Mass. Addams, Mortimer C., New York, N. Y. Adkins, Jesse C., Washington, D. C. Adkins, William H., Easton, Md. Adler, Isaac, Rochester, N. Y. Agar, John G., New York, N. Y. Ahern, Clinton J., Dwight, Ill. Ahern, David C., So. Framingham, Mass. Aikens, Frank R., Sioux Falls, S. D. Ailsie, James F., Boise, Ida. Albert, Homer, Boston, Mass.</p> | <p>Albert, Charles S., Spokane, Wash. Albertson, Robert B., Seattle, Wash. Albin, John H., Concord, N. H. Alcorn, Albert D., Cincinnati, Ohio. Alden, Maurice L., Kansas City, Kan. Alden, W. T., Chicago, Ill. Alderson, C. M., Charleston, W. Va. Aldrich, Charles F., Worcester, Mass. Aldrich, Clarence A., Providence, R. I. Alexander, Benjamin, Philadelphia, Pa. Alexander, Edward A., New York, N. Y. Alexander, Joseph E., Winston-Salem, N. C. Alexander, Lucien H., Philadelphia, Pa. Alexander, Taliaferro, Shreveport, La. Alexander, Thomson H., Washington, D. C. Allen, Alfred M., Cincinnati, Ohio. Allen, Charles Claflin, St. Louis, Mo. Allen, Charles E., Boston, Mass. Allen, Charles L., Chicago, Ill. Allen, Clifford, B., St. Louis, Mo. Allen, E. Lee, Los Angeles, Cal. Allen, F. Sturges (New York, N. Y.), Springfield, Mass. Allen, Fred J., Sanford, Me. Allen, Frederick L., New York, N. Y. Allen, Geo. J., Rochester, Minn. Allen, George W., Denver, Col. Allen, Guy R. C., Wheeling, W. Va. Allen, James A., New York, N. Y. Allen, John, Tupelo, Miss. Allen, John R., Lexington, Ky. Allen, Lafon, Louisville, Ky. Allen, Murray, Raleigh, N. C. Allen, Stephen H., Topeka, Kan. Allen, Thomas, Anderson, S. C. Allen, William Harrison, Warren, Pa. Allen, William V., Madison, Neb. Allen, Yorke, New York, N. Y. Alling, Arnon A., New Haven, Conn. Alling, John W., New Haven, Conn. Allison, Edward M., Jr., Salt Lake City, Utah. Allison, John, Nashville, Tenn.</p> |
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- Allison, William B., Seattle, Wash.
 Alston, Guy C., Everett, Wash.
 Ambler, B. Mason, Parkersburg, W. Va.
 Ambrose, Wm. C., Washington, D. C.
 Ames, Charles B., Oklahoma City, Okla.
 Ames, F. W., Mayville, N. D.
 Amidon, Charles F., Fargo, N. D.
 Amram, David Werner, Philadelphia, Pa.
 Amsden, Wm. M., Marion, Ind.
 Anable, Courtland V., New York, N. Y.
 Anderson, Clifford S., Worcester, Mass.
 Anderson, David S., Birmingham, Ala.
 Anderson, Edwin G., Boston, Mass.
 Anderson, Elbridge R., Boston, Mass.
 Anderson, George W., Boston, Mass.
 Anderson, Harry Bennett, Memphis, Tenn.
 Anderson, Henry W., Richmond, Va.
 Anderson, J. A., Los Angeles, Cal.
 Anderson, Le Roy, Prescott, Ariz.
 Anderson, Luther C., Welch, W. Va.
 Anderson, Milton H., Hancock, Iowa.
 Anderson, Robbins B., Honolulu, Hawaii.
 Anderson, Robert L., Ocala, Fla.
 Anderson, Thomas H., Washington, D. C.
 Anderson, Thomas L., St. Louis, Mo.
 Anderson, Thornwell G., Middlesboro, Ky.
 Anderson, W. D., Tupelo, Miss.
 Anderson, William Y. C., Philadelphia, Pa.
 Andrade, Cipriano, Jr., New York, N. Y.
 Andrews, Alex. Boyd, Jr., Raleigh, N. C.
 Andrews, Allen, Hamilton, Ohio.
 Andrews, Champe S., New York, N. Y.
 Andrews, James D., New York, N. Y.
 Andrews, James P., Hartford, Conn.
 Andrews, L. C., Oxford, Miss.
 Andrews, Sidney F., St. Louis, Mo.
 Angell, Walter F., Providence, R. I.
 Annis, Frank J., Fort Collins, Col.
 Ansell, Samuel T., Washington, D. C.
 Anthoine, William R., Portland, Me.
 Antisdel, John P., Detroit, Mich.
 Aplington, Henry, New York, N. Y.
 ApMadoc, W. Tudor, Chicago, Ill.
 Appell, Albert J., New York, N. Y.
 Appell, Albert J. W., Chicago, Ill.
 Apperson, Lewis, Mt. Sterling, Ky.
 Applegate, John S., Red Bank, N. J.
 Appleton, Frederick H., Bangor, Me.
 Appleton, John H., Boston, Mass.
 Archer, Vachel B., Parkersburg, W. Va.
 Arctander, Ludwig, Minneapolis, Minn.
 Armin, Charles E., Waukesha, Wis.
 Armistead, Henry M., Little Rock, Ark.
 Armstrong Edward Ambler, Camden, N. J.
 Armstrong, James D., St. Paul, Minn.
 Arnold, Constantine P., Laramie, Wyo.
 Arnold, Harry B., Columbus, Ohio.
 Arnold, Joseph A., New York, N. Y.
 Arnold, Lynn J., Cooperstown, N. Y.
 Arnold, Reuben R., Atlanta Ga.
 Arnold, Victor P., Chicago, Ill.
 Arnold, William H., Texarkana, Ark.
 Arnstein, Emanuel, New York, N. Y.
 Arthur, Jesse, Battle Creek, Mich.
 Arvine, E. P., New Haven, Conn.
 Ash, David, Baltimore, Md.
 Ashcraft, Raymond, Chicago, Ill.
 Asher, Harry W., New Haven, Conn.
 Ashley, Clarence D., New York, N. Y.
 Ashley, Henry D., Kansas City, Mo.
 Ashton, James M., Tacoma, Wash.
 Atherton, Percy A., Boston, Mass.
 Attkisson, Eugene R., Louisville, Ky.
 Auerbach, Joseph S., New York, N. Y.
 Augert, Eugene H., St. Louis, Mo.
 Austin, James M., Ellendale, N. D.
 Austin, Warren R., St. Albans, Vt.
 Austrian, Alfred S., Chicago, Ill.
 Autry, James L., Houston, Tex.
 Avery, A. G., Spokane, Wash.
 Avery, John C., Pensacola, Fla.
 Axtell, Ezra P., Jacksonville, Fla.
 Ayers, George D., Chicago, Ill.
 Ayers, Walter, Brookline, Mass.
 Aylward, James F., Boston, Mass.
 Aylward, John A., Madison, Wis.
 Ayres, Charles H., New York, N. Y.
 Ayres, William, Pineville, Ky.
 Babb, Henry B., Denver, Col.
 Babb, James, E., Lewiston, Ida.
 Babb, Max Wellington, Milwaukee, Wis.
 Babbitt, Byron F., St. Louis, Mo.
 Babbitt, Kurnel R., New York, N. Y.
 Babst, Earl D., New York, N. Y.
 Bachman, George L., Geneva, N. Y.
 Backus, Augustus C., Milwaukee, Wis.
 Bacon, Levi Seward, Washington, D. C.
 Bacon, Selden, New York, N. Y.
 Bacot, John Vacher, Morristown, N. J.
 Badger, Walter I., Boston, Mass.
 Baensch, Emil, Manitowoc, Wis.
 Baer, George F., Reading, Pa.
 Baer, Henry, Cincinnati, Ohio.
 Baetjer, Edwin G., Baltimore, Md.
 Baetjer, Harry N., Baltimore, Md.
 Baggott, Vallandigham B., New York, N. Y.
 Bagley, William R., Madison, Wis.
 Bailen, Samuel Lawrence, Boston, Mass.

- Bailey, Charles L., Jr., Harrisburg, Pa.
 Bailey, Charles O., Sioux Falls, S. D.
 Bailey, Hollis R., Boston, Mass.
 Bailey, Lorenzo Alton, Washington, D. C.
 Bailey, Marsh W., Washington, Iowa.
 Bailey, Morton S., Denver, Col.
 Bailey, William D., Duluth, Minn.
 Baker, Albert A., Providence, R. I.
 Baker, Charles S., Columbus, Ind.
 Baker, Daniel W., Washington, D. C.
 Baker, Darius, Newport, R. I.
 Baker, Harvey H., Boston, Mass.
 Baker, James A., Houston, Tex.
 Baker, Jay Newton, Washington, D. C.
 Baker, Louis L., Tooele City, Utah.
 Baker, Norman L., Milwaukee, Wis.
 Baker, Robert A., Jacksonville, Fla.
 Baker, William H., Jacksonville, Fla.
 Bakewell, Paul, St. Louis, Mo.
 Balderston, Walter C., Washington, D. C.
 Baldwin, Albert, Duluth, Minn.
 Baldwin, Alfred C., Derby, Conn.
 Baldwin, Charles G., Baltimore, Md.
 Baldwin, Clark E., Adrian, Mich.
 Baldwin, Henry R., Chicago, Ill.
 Baldwin, Jesse A., Chicago, Ill.
 Baldwin, Roger S., New York, N. Y.
 Baldwin, Simeon E., New Haven, Conn.
 Baldwin, W. W., Burlington, Iowa.
 Ball, Dan H., Marquette, Mich.
 Ball, Fred. S., Montgomery, Ala.
 Ball, Geo. W., Jr., Iowa City, Iowa.
 Ball, R. E., Kansas City, Mo.
 Ballantine, Arthur A., Boston, Mass.
 Ballard, Eugene, Prattville, Ala.
 Balliet, Andrew J., Seattle, Wash.
 Ballinger, Harry, Seattle, Wash.
 Ballinger, Richard A., Seattle, Wash.
 Ballou, Daniel R., Providence, R. I.
 Bamberger, Ira Leo, New York, N. Y.
 Bamberger, Ralph, Indianapolis, Ind.
 Bancker, Enoch, Jackson, Mich.
 Bancroft, Edgar A., Chicago, Ill.
 Bancroft, Hugh, Boston, Mass.
 Bancroft, L. H., Richland Center, Wis.
 Bangs, Francis S., New York, N. Y.
 Bangs, Frederick A., Chicago, Ill.
 Bangs, George A., Grand Forks, N. D.
 Bangs, Tracy R., Grand Forks, N. D.
 Banks, Lemuel, Memphis, Tenn.
 Banton, Joab H., New York, N. Y.
 Barasa, Bernard P., Chicago, Ill.
 Barber, Arthur William, New York, N. Y.
 Barber, Charles, Oshkosh, Wis.
 Barbour, John S., Fairfax, Va.
 Barclay, Henry Augustus, Los Angeles, Cal.
 Barclay, Shepard, St. Louis, Mo.
 Barker, Burt Brown, Chicago, Ill.
 Barker, Wendell P., New York, N. Y.
 Barlow, Burt E., Coldwater, Mich.
 Barnard, Ralph P., Washington, D. C.
 Barnes, Albert C., Chicago, Ill.
 Barnes, Charles B., Jr., Boston, Mass.
 Barnes, Henry B., New York City.
 Barnes, John B., Norfolk, Neb.
 Barnes, John Hampton, Philadelphia, Pa.
 Barnes, Jonathan, Springfield, Mass.
 Barnett, D. R., Yazoo City, Miss.
 Barnett, James F., Grand Rapids, Mich.
 Barnett, Otto R., Chicago, Ill.
 Barney, C. R., Seattle, Wash.
 Barney, Charles Neal, Lynn, Mass.
 Barney, Walter H., Providence, R. I.
 Barret, Thomas C., Shreveport, La.
 Barrett, Henry R., White Plains, N. Y.
 Barrett, James M., Fort Wayne, Ind.
 Barrett, Wm. H., Augusta, Ga.
 Barrette, William J., Salt Lake City, Utah.
 Barroll, Hope H., Chestertown, Md.
 Barron, Charles H., Columbia, S. C.
 Barrows, Chester W., Providence, R. I.
 Barrows, Morton, St. Paul, Minn.
 Barry, Arthur R., Milwaukee, Wis.
 Barry, Edmund D., Los Angeles, Cal.
 Barry, Herbert, New York, N. Y.
 Barry, Michael, Phillips, Wis.
 Barry, Wm. J., Boston, Mass.
 Bartels, Gustave C., Denver, Col.
 Barth, Irvin V., St. Louis, Mo.
 Barthell, Edward E., Nashville, Tenn.
 Bartholomew, Pliny W., Indianapolis, Ind.
 Bartholomew, William T., San Angelo, Tex.
 Bartlett, Charles L., Macon, Ga.
 Bartlett, Charles W., Boston, Mass.
 Bartlett, Edmund M., Kansas City, Mo.
 Bartlett, J. Kemp, Baltimore, Md.
 Bartlett, John P., New York, N. Y.
 Bartlett, Ralph Sylvester, Boston, Mass.
 Bartlett, William Pitt, Eau Claire, Wis.
 Bartley, Charles Earle, Chicago, Ill.
 Barton, George P., Chicago, Ill.
 Barton, Jesse M., Newport, N. H.
 Barton, R. M., Jr., Memphis, Tenn.
 Barton, Randolph, Baltimore, Md.
 Baskin, John B., Louisville, Ky.
 Bass, Frank M., Nashville, Tenn.
 Bassett, J. Colby, Boston, Mass.

- Bassett, Lucius V., Rocky Mount, N. C.
 Bassett, Norman L., Augusta, Me.
 Batchelder, Wallace, Bethel, Vt.
 Batchelor, George H., Indianapolis, Ind.
 Bates, Charles W., St. Louis, Mo.
 Bates, George W., Detroit, Mich.
 Bates, Henry M., Ann Arbor, Mich.
 Bates, John Lewis, Boston, Mass.
 Battle, Alfred, Seattle, Wash.
 Battle, George Gordon, New York, N. Y.
 Bausman, Frederick, Seattle, Wash.
 Baxter, E. J., Jonesboro, Tenn.
 Baxter, Irving F., Omaha, Neb.
 Baxter, John T., Minneapolis, Minn.
 Baxter, Luther L., Fergus Falls, Minn.
 Baxter, Sloss D., Nashville, Tenn.
 Bays, Harry P., Tampa, Fla.
 Bayard, James Wilson, Philadelphia, Pa.
 Baynard, Samuel H., Jr., Wilmington, Del.
 Beach, John K., New Haven, Conn.
 Beach, Myron H., Chicago, Ill.
 Beal, Fred. W., Terre Haute, Ind.
 Beal, James H., Pittsburg, Pa.
 Beale, Charles W., Wallace, Ida.
 Beale, Joseph Henry, Cambridge, Mass.
 Beale, William G., Chicago, Ill.
 Beall, Thomas Settle, Greensboro, N. C.
 Beaman, Middleton, Boston, Mass., New York City.
 Bearden, Walter S., Shelbyville, Tenn.
 Beardsley, Arthur L., Glenwood Springs, Col.
 Beardley, Morris B., Bridgeport, Conn.
 Beardley, Samuel A., New York, N. Y.
 Beattie, Taylor, Thibodaux, La.
 Beaty, Amos L., Houston, Texas.
 Beaumont, John W., Detroit, Mich.
 Beaver, James A., Bellefonte, Pa.
 Bechhoefer, Charles, St. Paul, Minn.
 Beck, George F., St. Louis, Mo.
 Beck, James M., New York, N. Y.
 Becker, Benjamin V., Chicago, Ill.
 Becker, Tracy C., Los Angeles, Cal.
 Becker, Wm. Dee, St. Louis, Mo.
 Bedell, George C., Jacksonville, Fla.
 Bedford, George R., Wilkes-Barre, Pa.
 Bedford, J. Claude, Philadelphia, Pa.
 Beeber, Dimmer, Philadelphia, Pa.
 Beekman, Charles K., New York, N. Y.
 Beeler, Joseph G., North Platte, Neb.
 Beers, George E., New Haven, Conn.
 Begg, William Reynolds, New York, N. Y.
 Behan, Louis J., Chicago, Ill.
 Beltler, Harold B., Philadelphia, Pa.
 Belden, E. H., Spokane, Wash.
 Belitz, Arthur F., Madison, Wis.
 Bell, B. D., Gallatin, Tenn.
 Bell, Charles, Herkimer, N. Y.
 Bell, Charles U., Andover, Mass.
 Bell, Clark, New York, N. Y.
 Bell, James D., Brooklyn, N. Y.
 Bell, John C., Philadelphia, Pa.
 Bell, Joseph C., Trinidad, Col.
 Bell, Marcus L., Chicago, Ill.
 Bell, T. F., Shreveport, La.
 Belt, William O., Chicago, Ill.
 Bemis, Harry E., Milwaukee, Wis.
 Bender, Melvin T., Albany, N. Y.
 Benedict, Abraham, New York, N. Y.
 Benedict, Edward G., New York, N. Y.
 Benet, Christie, Columbia, S. C.
 Bennet, William S., New York, N. Y.
 Bennett, David C., Jr., New York, N. Y.
 Bennett, Edmon G., Denver, Col.
 Bennett, John Henry, Viroqua, Wis.
 Bennett, Samuel C., Boston, Mass.
 Bennett, Smith W., Columbus, Ohio.
 Benson, Chas. B., Hudson, N. Y.
 Benson, J. O., Chattanooga, Tenn.
 Bentley, Chas. S., Cleveland, Ohio.
 Bentley, Cyrus, Chicago, Ill.
 Benton, C. E., Fort Scott, Kan.
 Berenson, Arthur, Boston, Mass.
 Bergen, James J., Somerville, N. J.
 Bergen, Tunis G., New York, N. Y.
 Berger, Albert L., Kansas City, Kan.
 Berlet, Robert E., Chicago, Ill.
 Bernard, Richard, Baltimore, Md.
 Bernard, Silas G., Asheville, N. C.
 Bernstein, Alexander, Portland, Ore.
 Berry, John King, Boston, Mass.
 Berry, W. Alvin, Paducah, Ky.
 Berry, Walter V. R., Washington, D. C.
 Bertolette, Frederick, Mauch Chunk, Pa.
 Besson, J. W. Rufus, Hoboken, N. J.
 Best, James I., Minneapolis, Minn.
 Bettman, Alfred, Cincinnati, Ohio.
 Bettman, Gilbert, Cincinnati, Ohio.
 Bickford, Herbert J., New York, N. Y.
 Biddle, Charles, Philadelphia, Pa.
 Bien, Franklin, New York, N. Y.
 Bierer, A. G. Curtin, Guthrie, Okla.
 Bigelow, Albert F., Boston, Mass.
 Bigelow, Cleveland, Boston, Mass.
 Bigelow, William Reed, Boston, Mass.
 Biggs, Albert W., Memphis, Tenn.
 Biggs, J. Crawford, Durham, N. C.
 Bijur, Nathan, New York, N. Y.
 Bill, Albert C., Hartford, Conn.
 Billings, Charles L., Chicago, Ill.

- Billingsley, N. B., Lisbon, Ohio.
 Bingham, James, Indianapolis, Ind.
 Bingham, Norman W., Jr., Boston, Mass.
 Bingham, Robert W., Louisville, Ky.
 Binney, Charles Chauncey, Philadelphia, Pa.
 Binney, Harold, New York, N. Y.
 Bird, Claire B., Wausau, Wis.
 Bird, George E., Portland, Me.
 Birdsall, Luther E., Grand Forks, N. D.
 Birney, Arthur A., Washington, D. C.
 Biabee, Horatio, Jacksonville, Fla.
 Bischoff, Henry, Jr., New York, N. Y.
 Bishop, Elias B., Boston, Mass.
 Bishop, J. W., Nashville, Ark.
 Bishop, James Franklin, Chicago, Ill.
 Bishop, James L., New York, N. Y.
 Bishop, John E., St. Louis, Mo.
 Bissell, Frederick O., Buffalo, N. Y.
 Bissell, John H., Detroit, Mich.
 Black, Arthur G., Kansas City, Mo.
 Black, Cyrenius P., Lansing, Mich.
 Black, William E., Milwaukee, Wis.
 Blackburn, Thomas W., Omaha, Neb.
 Blackmur, Paul E., Boston, Mass.
 Blackwood, John W., Little Rock, Ark.
 Blaine, Elbert F., Seattle, Wash.
 Blair, Albert, St. Louis, Mo.
 Blair, Henry P., Washington, D. C.
 Blair, Jesse H., Indianapolis, Ind.
 Blair, John S., Washington, D. C.
 Blair, Jos. Paxton, New Orleans, La.
 Blair, R. W., Topeka, Kansas.
 Blair, Robert F., Wagoner, Oklahoma.
 Blake, Chauncey E., Madison, Wis.
 Blake, Freeman K., Chicago, Ill.
 Blakeley, William A., Pittsburg, Pa.
 Blanchard, Cyrus N., Wilton, Me.
 Blanchard, James A., New York, N. Y.
 Blanchard, John, Bellefonte, Pa.
 Bland, Henry Willis, Reading, Pa.
 Blandy, Charles, New York, N. Y.
 Bledsoe, S. T., Oklahoma City, Okla.
 Blevins, John A., St. Louis, Mo.
 Blinn, Geo. Richard, Boston, Mass.
 Block, Geo. M., St. Louis, Mo.
 Blodgett, Edward E., Boston, Mass.
 Blodgett, Henry W., St. Louis, Mo.
 Blood, Charles H., Fitchburg, Mass.
 Blood, James H., Denver, Col.
 Bloodgood, Francis, Jr., Milwaukee, Wis.
 Bloodgood, Wheeler P., Milwaukee, Wis.
 Blount, William A., Pensacola, Fla.
 Blymyer, William H., New York, N. Y.
 Boardman, R. T., Minneapolis, Minn.
 Boardman, Samuel W., Jr., Newark, N. J.
 Boardman, Richard, Jersey City, N. J.
 Boardman, Aleck, Shreveport, La.
 Boaz, O. T., Pittsburg, Kansas.
 Boesche, Herman G., Omaha, Neb.
 Boessel, Frank Tilden, Milwaukee, Wis.
 Bogert, Henry L., New York, N. Y.
 Bogle, W. H., Seattle, Wash.
 Bohlen, Francis H., Philadelphia, Pa.
 Bohmrich, Louis G., Milwaukee, Wis.
 Boice, Augustin, Indianapolis, Ind.
 Bollinger, E. Elmo, Sildell, La.
 Bollinger, James Willis, Davenport, Iowa.
 Bolster, Percy G., Boston, Mass.
 Bolte, G. Arthur, Atlantic City, N. J.
 Boltwood, Lucius, Grand Rapids, Mich.
 Bomar, Horace L., Spartanburg, S. C.
 Bomberger, Loudon L., Hammond, Ind.
 Bonaparte, Charles J., Baltimore, Md.
 Bond, Carroll T., Baltimore, Md.
 Bond, Chester G., Jackson, Tenn.
 Bond, Lawrence, Boston, Mass.
 Bond, Nicholas P., Baltimore, Md.
 Bond, Samuel R., Washington, D. C.
 Bond, Sterling P., St. Louis, Mo.
 Bond, Thomas, St. Louis, Mo.
 Bond, Thomas L., Salina, Kan.
 Bond, Walter Huntingdon, New York, N. Y.
 Boner, W. W., Aberdeen, Wash.
 Bonham, Milledge L., Anderson, S. C.
 Bonson, Robert, Dubuque, Iowa.
 Bonynge, Robert W., Denver, Col.
 Boone, Linden L., San Diego, Cal.
 Booth, Percy N., Louisville, Ky.
 Booth, Walter C., New York, N. Y.
 Booth, Wilbur F., Minneapolis, Minn.
 Boothby, John William, New York, N. Y.
 Borah, William E. (Washington, D. C.), Boise, Ida.
 Borchert, Hermann, New York, N. Y.
 Borst, Henry V., Amsterdam, N. Y.
 Board, Robert H., Minot, N. D.
 Bos, Henry M., Jr., Providence, R. I.
 Boston, Charles A., New York, N. Y.
 Boston, John Guyton, New York, N. Y.
 Bostwick, William M., Jr., Jacksonville, Fla.
 Bosworth, Charles Wilder, Springfield, Mass.
 Bosworth, Orrin L., Bristol, R. I.
 Botsford, James S., Kansas City, Mo.
 Bottensek, John, Appleton, Wis.
 Bouck, Francis E., Leadville, Col.
 Bouck, Thos. L., Milbank, S. Dakota.

- Boudeman, Dallas, Kalamazoo, Mich.
 Bourne, Louis M., Asheville, N. C.
 Bouvier, John Vernon, Jr., New York, N. Y.
 Bowen, Adna G., Medina, N. Y.
 Bowen, Arthur M., Twin Falls, Ida.
 Bowen, William A., Los Angeles, Cal.
 Bowen, Wm. M. P., Providence, R. I.
 Bowers, E. A., Elkins, W. Va.
 Bowers, E. J., Gulfport, Miss.
 Bowers, James W., Jr., Baltimore, Md.
 Bowersock, Justin D., Kansas City, Mo.
 Bowker, Harrison W., Worcester, Mass.
 Bowman, Henry H., New York, N. Y.
 Bowman, Noah L., Garnett, Kan.
 Boyce, J. W., Sioux Falls, S. D.
 Boyd, A. Hunter, Cumberland, Md.
 Boyd, Clarence T., Nashville, Tenn.
 Boyd, James Harrington, Toledo, Ohio.
 Boyle, John Wellington, Utica, N. Y.
 Boys, William H., Streator, Ill.
 Bozeman, Albert S., Meridian, Miss.
 Bracken, Francis B., Philadelphia, Pa.
 Brackett, Edgar T., Saratoga Springs, N. Y.
 Bradbury, James O., Saco, Me.
 Bradford, Edward G., Wilmington, Del.
 Bradford, Ernest W., Washington, D. C.
 Bradford, Francis S., Appleton, Wis.
 Bradish, Frank Elliot, Boston, Mass.
 Bradley, Thomas C., Washington, D. C.
 Bradley, Thos. E. D., Chicago, Ill.
 Bradley, William M., Portland, Me.
 Bradshaw, De E., Little Rock, Ark.
 Bradshaw, George Sam., Greensboro, N. C.
 Bradshaw, William Francis, Jr., Paducah, Ky.
 Brady, Arthur W., Anderson, Ind.
 Brady, George Moore, Baltimore, Md.
 Brady, P. J., Cleveland, Ohio.
 Bruley, Henry K., Boston, Mass.
 Bramham, Wm. Gibbons, Durham, N. C.
 Bramlett, Walter Sherwood, Dallas, Texas.
 Branch, Lee W., Quitman, Ga.
 Branch, Oliver E., Manchester, N. H.
 Brandeis, Albert S., Louisville, Ky.
 Brandeis, Louis D., Boston, Mass.
 Brandon, Morris, Atlanta, Ga.
 Brann, Henry A., New York, N. Y.
 Brannan, Joseph Doddridge, Cambridge, Mass.
 Brannon, W. W., Weston, W. Va.
 Brantley, Theodore, Helena, Mont.
 Brantly, William T., Baltimore, Md.
 Braxton, A. C., Richmond, Va.
 Brayton, Israel, Fall River, Mass.
 Breaux, Joseph A., New Orleans, La.
 Breckenridge, Ralph W., Omaha, Neb.
 Breckinridge, A. N., Summersville, W. Va.
 Breeding, Ben. N., Chicago, Ill.
 Breed, William C., New York, N. Y.
 Breen, William F., Fort Wayne, Ind.
 Bremer, Clifton L., Boston, Mass.
 Brennan, John F., Yonkers, N. Y.
 Brennan, Robert, Des Moines, Iowa.
 Brewer, Daniel Chauncey, Boston, Mass.
 Brewster, George R., Newburgh, N. Y.
 Brewster, James H., Ann Arbor, Mich.
 Brewster, Joseph, New York City.
 Brice, Philip H., Philadelphia, Pa.
 Brickenstein, John H., Washington, D. C.
 Bridges, John L., Tarboro, N. C.
 Bridges, J. B., Aberdeen, Wash.
 Briggs, Asa G., St. Paul, Minn.
 Briggs, Charles G., San Diego, Cal.
 Bright, Alfred H., Minneapolis, Minn.
 Bright, Michael S., Duluth, Minn.
 Bright, Robert S., Philadelphia, Pa.
 Brimmer, George E., Rawlins, Wyo.
 Briscoe, Charles H., Hartford, Conn.
 Briscoe, John P., Prince Frederick, Md.
 Bristol, William C., Portland, Ore.
 Britt, E. W., Los Angeles, Cal.
 Britt, Philip J., New York, N. Y.
 Britton, Alexander, Washington, D. C.
 Britton, Roy F., St. Louis, Mo.
 Brizzolara, James, Fort Smith, Ark.
 Brock, Charles E., Washington, D. C.
 Brock, Charles R., Denver, Col.
 Brock, Lee, Nashville, Tenn.
 Brockett, Orlando Mitchell, Des Moines, Iowa.
 Brodek, Charles A., New York, N. Y.
 Brodrick, John M., Marysville, Ohio.
 Brogan, Francis A., Omaha, Neb.
 Bromberg, Frederick G., Mobile, Ala.
 Brome, Harrison C., Omaha, Neb.
 Bronson, Harrison A., Grand Forks, N. D.
 Bronson, Ira, Seattle, Wash.
 Bronson, Nathaniel R., Waterbury, Conn.
 Brooks, Aubrey, L., Greensboro, N. C.
 Brooks, C. H., Wichita, Kan.
 Brooks, Frank C., Minneapolis, Minn.
 Brooks, Franklin E., Colorado Springs, Col.
 Brooks, J. W., Walla Walla, Wash.
 Brooks, James B., Syracuse, N. Y.
 Brooks, Tom D., Russellville, Ark.
 Brophy, Stephen, Toledo, Ohio.

- Broosmith, William, Hartford, Conn.
 Broussard, Robert F., New Iberia, La.
 Brown, Carl Stedman, New York, N. Y.
 Brown, Chapin, Washington, D. C.
 Brown, Charles A., Chicago, Ill.
 Brown, Edward Osgood, Chicago, Ill.
 Brown, Eli Houston, Jr., Frankfort, Ky.
 Brown, Foster V., Chattanooga, Tenn.
 Brown, Francis Shunk, Philadelphia, Pa.
 Brown, Fred A., Chicago, Ill.
 Brown, Fred W., Boston, Mass.
 Brown, Frederick V., Seattle, Wash.
 Brown, Geo. T., Providence, R. I.
 Brown, Hugh H., Tonopah, Nev.
 Brown, J. Hay, Lancaster, Pa.
 Brown, James H., Denver, Col.
 Brown, John A., Philadelphia, Pa.
 Brown, John B., Monmouth, Ill.
 Brown, John Douglass, Philadelphia, Pa.
 Brown, Lawrence E., Scottsboro, Ala.
 Brown, Leslie L., Winona, Minn.
 Brown, Melville C., Laramie, Wyo.
 Brown, Neal, Wausau, Wis.
 Brown, Norris, Omaha, Nebraska.
 Brown, Paul, Chicago, Ill.
 Brown, R. A., St. Joseph, Mo.
 Brown, Rome G., Minneapolis, Minn.
 Brown, Selden S., Rochester, N. Y.
 Brown, Taylor E., Chicago, Ill.
 Brown, W. W., Parsons, Kan.
 Browne, Aldis B., Washington, D. C.
 Browne, Arthur S., Washington, D. C.
 Browne, E. Wayles, Shreveport, La.
 Brownell, Edward L., Providence, R. I.
 Brownson, Robert M., Detroit, Mich.
 Bruce, Andrew A., Bismarck, N. D.
 Bruce, Charles M., Boston, Mass.
 Bruce, Edward B., Manila, P. I.
 Bruce, Helm, Louisville, Ky.
 Bruell, Wm. F., Redfield, S. Dakota.
 Bruenn, Bernard, New Orleans, La.
 Brundage, Edward J., Chicago, Ill.
 Brunini, John B., Vicksburg, Miss.
 Bruno, Richard M., New York, N. Y.
 Brunot, H. F., Baton Rouge, La.
 Bryan, Charles M., Memphis, Tenn.
 Bryan, George, Richmond, Va.
 Bryan, Nathan P., Jacksonville, Fla.
 Bryan, P. Taylor, St. Louis, Mo.
 Bryan, Thos. Pinckney, Richmond, Va.
 Bryant, William H., Denver, Col.
 Bryson, Herbert C., Walla Walla, Wash.
 Bryson, Joseph M., St. Louis, Mo.
 Buchanan, A. S., Memphis, Tenn.
 Buchanan, Claude R., Grand Rapids, Mich.
 Buchanan, James, Trenton, N. J.
 Buck, Arthur A., Schenectady, N. Y.
 Buck, Charles Francis, New Orleans, La.
 Buck, Gordon M., New York, N. Y.
 Buckbee, Monmouth S., White Plains, N. Y.
 Buckingham, George T., Chicago, Ill.
 Buckman, Henry H., Jacksonville, Fla.
 Budd, Henry, Philadelphia, Pa.
 Buder, Gustavus A., St. Louis, Mo.
 Buder, Oscar E., St. Louis, Mo.
 Buell, Charles J., Rapid City, S. D.
 Buffington, Edwin D., Stillwater, Minn.
 Buffington, George W., Minneapolis, Minn.
 Buffum, Walter N., Boston, Mass.
 Bugbee, Albert L., Shell Lake, Wis.
 Bulst, Henry Charleston, S. C.
 Bulkley, Almon W., Chicago, Ill.
 Bulkley, Harry Conant, Detroit, Mich.
 Bull, J. Edgar, New York, N. Y.
 Bullitt, Joshua F., Big Stone Gap, Va.
 Bullitt, William Marshall, Louisville, Ky.
 Bullock, A. G., Worcester, Mass.
 Bullowa, Ferdinand E. M., New York, N. Y.
 Bumgardner, J. Lewis, Beckley, W. Va.
 Bump, Franklin E., Wausau, Wis.
 Bundy, Wm. F., Centralia, Ill.
 Bunn, Charles W., St. Paul, Minn.
 Bunn, Clinton O., Oklahoma City, Okla.
 Bunn, Fred. A., New York, N. Y.
 Bunn, George L., St. Paul, Minn.
 Bunn, John Marshall, Spokane, Wash.
 Buntin, W. Allison, Nashville, Tenn.
 Burch, Charles N., Memphis, Tenn.
 Burchard, John E., St. Paul, Minn.
 Burchenal, Caleb E., Wilmington, Del.
 Burd, George B., Buffalo, N. Y.
 Burdett, Everett W., Boston, Mass.
 Burdick, Charles W., Cheyenne, Wyo.
 Burdick, Clark, Newport, R. I.
 Burdick, Francis M., New York, N. Y.
 Burdick, William Livesey, Lawrence, Kan.
 Burford, Albert Lee, Texarkana, Texas.
 Burger, Louis J., Baltimore, Md.
 Burges, William H., El Paso, Tex.
 Burke, Charles E., Pittsfield, Mass.
 Burke, Francis, Boston, Mass.
 Burke, John Henry, Ballston Spa., N. Y.
 Burke, Thomas, Seattle, Wash.
 Burke, Thomas C., Buffalo, N. Y.
 Burke, Timothy F., Cheyenne, Wyo.
 Burket, Harlan F., Findlay, Ohio.
 Burks, Paul, Prescott, Ariz.

- Burleigh, Alvin, Plymouth, N. H.
 Burlingham, Charles C., New York, N. Y.
 Burnett, William H., Philadelphia, Pa.
 Burnham, Addison C., Boston, Mass.
 Burnham, Frederic, Chicago, Ill.
 Burnham, Telford, Chicago, Ill.
 Burns, Louis Henry, New Orleans, La.
 Burns, R. L., Carthage, N. C.
 Burpee, Lucien Francis, Waterbury, Conn.
 Burr, James E., Scranton, Pa.
 Burr, Stiles W., St. Paul, Minn.
 Burr, William P., New York, N. Y.
 Burrage, Albert C., Boston, Mass.
 Burroughs, Benjamin R., Edwardsville, Ill.
 Burry, William, Chicago, Ill.
 Burton, Chas. S., Chicago, Ill.
 Burton, Robert, Rapid City, S. Dakota.
 Burwell, Benjamin F., Oklahoma City, Okla.
 Busby, Leonard A., Chicago, Ill.
 Bushnell, T. H., Cleveland, Ohio.
 Buss, Charles M., Cleveland, Ohio.
 Butler, Charles Henry (Washington, D. C.), New York, N. Y.
 Butler, Frank W., Farmington, Me.
 Butler, Fred E., Lewiston, Ida.
 Butler, Frederick M., Rutland, Vt.
 Butler, Fred. W., Jacksonville, Fla.
 Butler, Harry L., Madison, Wis.
 Butler, Jas. M., Columbus, Ohio.
 Butler, Noble C., Indianapolis, Ind.
 Butler, Pierce, St. Paul, Minn.
 Butler, Rush C., Chicago Ill.
 Butler, William Allen, Jr., New York, N. Y.
 Buttles, John S., Rutland, Vt.
 Button, William H., New York, N. Y.
 Burton, John Cameron, Winston-Salem, N. C.
 Buzbee, Thos. S., Little Rock, Ark.
 Byard, James J., Jr., Cooperstown, N. Y.
 Byers, Alpheus, Seattle, Wash.
 Byers, I. W., Iron River, Mich.
 Byers, Ovid A., Seattle, Wash.
 Bynum, William P., Greensboro, N. C.
 Byrne, James, New York, N. Y.
 Byrnes, Daniel, Chicago, Ill.
 Cabanis, E. H., Birmingham, Ala.
 Cabell, P. H. C., Richmond, Va.
 Cable, D. J., Lima, Ohio.
 Cabot, Frederick Pickering, Boston, Mass.
 Cadwalader, John, Philadelphia, Pa.
 Cadwalader, John, Jr., Philadelphia, Pa.
 Cadwalader, John L., New York, N. Y.
 Cady, Daniel L., New York, N. Y.
 Cahn, Edgar M., New Orleans, La.
 Cahn, William L., New York, N. Y.
 Cahoon, Richards Mott, Brooklyn, N. Y.
 Cain, Stith M., Nashville, Tenn.
 Caldwell, Chester L., St. Paul, Minn.
 Caldwell, Waller C., Trenton, Tenn.
 Calfee, Robert M., Cleveland, Ohio.
 Calhoun, C. C. (Washington, D. C.), Lexington, Ky.
 Calhoun, Patrick, New York, N. Y.
 Calhoun, William J., Chicago, Ill.
 Calkins, Guy S., Iowa City, Iowa.
 Call, Joseph H., Los Angeles, Cal.
 Callahan, James P. H., Hoquiam, Wash.
 Callaway, Frank E., Atlanta, Ga.
 Calvert, Cleon K., Hyden, Ky.
 Calwell, James S., Baltimore, Md.
 Camden, H. P., Parkersburg, W. Va.
 Cameron, Frederick W., Albany, N. Y.
 Cameron, Robert Thomas, Chattanooga, Tenn.
 Cameron, Winfield S., Jamestown, N. Y.
 Camp, E. C., Knoxville, Tenn.
 Camp, Edgar W., Los Angeles, Cal.
 Campbell, Altes H., Iola, Kan.
 Campbell, Angus G., DeFuniak Springs, Fla.
 Campbell, Charles H., Detroit, Mich.
 Campbell, Frederick B., New York, N. Y.
 Campbell, Henry M., Detroit, Mich.
 Campbell, Ira A., San Francisco, Cal.
 Campbell, J. J., Pittsburg, Kan.
 Campbell, James H., Grand Rapids, Mich.
 Campbell, John, Denver, Col.
 Campbell, John H., Tucson, Ariz.
 Campbell, Lemuel R., Nashville, Tenn.
 Campbell, Norman M., Colorado Springs, Col.
 Campbell, Robert B., Greenville, Miss.
 Campbell, S. D., Newport, Ark.
 Canada, J. W., Memphis, Tenn.
 Canaday, Walter, Ames, Iowa.
 Canfield, George F., New York, N. Y.
 Cann, J. Ferris, Savannah, Ga.
 Canning, John E., Providence, R. I.
 Cannon, Austin V., Cleveland, Ohio.
 Cannon, E. J., Spokane, Wash.
 Cant, William A., Duluth, Minn.
 Cantrell, Deaderick H., Little Rock, Ark.
 Cantrell, John H., Chattanooga, Tenn.
 Cantwell, William W., New York, N. Y.
 Capen, Charles L., Bloomington, Ill.
 Capers, John G., Washington, D. C.

- Carbya, J. O., Milwaukee, Wis.
 Cardozo, Ernest A., New York, N. Y.
 Carey, Charles H., Portland, Ore.
 Carey, Francis K., Baltimore, Md.
 Carey, Joseph G., Wichita, Kan.
 Carey, Martin, New York, N. Y.
 Carleton, Philip Greenleaf, Boston, Mass.
 Carlin, Walter J., New York, N. Y.
 Carlisle, John N., Watertown, N. Y.
 Carlsmith, Carl S., Hilo, Hawaii.
 Carmichael, J. D., Chickasha, Okla.
 Carmichael, J. H., Little Rock, Ark.
 Carmouche, W. J., Crowley, La.
 Carpenter, George A., Chicago, Ill.
 Carpenter, George H., Liberty, N. Y.
 Carpenter, James Emerson, New York, N. Y.
 Carpenter, Paul D., Milwaukee, Wis.
 Carpenter, Samuel L., Los Angeles, Cal.
 Carpenter, William L., Detroit, Mich.
 Carr, E. M., Manchester, Iowa.
 Carr, E. M., Seattle, Wash.
 Carr, Geo. Wentworth, Philadelphia, Pa.
 Carr, James A., St. Louis, Mo.
 Carroll, Charles, New Orleans, La.
 Carroll, Francis M., Boston, Mass.
 Carroll, Jas. B., Springfield, Mass.
 Carroll, Joseph Wheadon, New Orleans, La.
 Carroll, William H., Memphis, Tenn.
 Carrow, Howard, Camden, N. J.
 Carson, Hampton L., Philadelphia, Pa.
 Carter, Frank W., St. Louis, Mo.
 Carter, H. C., San Antonio, Tex.
 Carter, Henry J., New Orleans, La.
 Carter, Henry W., Chicago, Ill.
 Carter, Jacob M., Texarkana, Ark.
 Carter, Jarvis P., New York, N. Y.
 Carter, Orrin N., Chicago, Ill.
 Carter, William A., Tampa, Fla.
 Carton, John J., Flint, Mich.
 Caruthers, Allen, New York, N. Y.
 Carver, Eugene P., Boston, Mass.
 Carver, M. H., Natchitoches, La.
 Cary, Alfred L., Milwaukee, Wis.
 Cary, Guy, New York, N. Y.
 Cary, Robert J., Chicago, Ill.
 Case, Birdsey E., Hartford, Conn.
 Case, Chas. Center, Jr., Chicago, Ill.
 Case, Daniel H., Walluku, Hawaii.
 Casgrain, Charles W., Detroit, Mich.
 Cash, Daniel G., Duluth, Minn.
 Cassels, Edwin H., Chicago, Ill.
 Castle, Alfred L., Honolulu, Hawaii.
 Castle, William R., Honolulu, Hawaii.
 Cates, Charles T., Jr., Knoxville, Tenn.
 Caton, James R., Alexandria, Va.
 Catron, Thomas B., Santa Fe, N. M.
 Cavanagh, B. J., Des Moines, Iowa.
 Cavanah, Charles O., Boise, Ida.
 Cavender, Charles, Leadville, Col.
 Cavett, William G., Memphis, Tenn.
 Cavette, Scott Osten, Chicago, Ill.
 Chadbourne William M., New York, N. Y.
 Chaffe, David B. H., New Orleans, La.
 Chamberlain, Albert Henry, Boston, Mass.
 Chamberlain, George E., Portland, Ore.
 Chamberlayne, Charles F., Buzzards Bay, Mass.
 Chamberlin, Frederic E., Bayonne, N. J.
 Chambers, Francis T., Philadelphia, Pa.
 Chambliss, Alexander W., Chattanooga, Tenn.
 Chamlee, George W., Chattanooga, Tenn.
 Chancellor, Justus, Chicago, Ill.
 Chandler, Albert Minot, Boston, Mass.
 Chandler, Alfred D., Boston, Mass.
 Chandler, Eli H., Atlantic City, N. J.
 Chandler, Jefferson, Los Angeles, Cal.
 Chandler, Joseph H., Chicago, Ill.
 Chandler, Walter M., New York, N. Y.
 Chandler, William E., Concord, N. H.
 Chanler, Lewis Stuyvesant, New York, N. Y.
 Channing, Henry Morse, Boston, Mass.
 Chapman, S. Spencer, Philadelphia, Pa.
 Chapman, Willford G., Portland, Me.
 Chappell, Fred. L., Kalamazoo, Mich.
 Charles, Benjamin H., St. Louis, Mo.
 Charlton, Walter G., Savannah, Ga.
 Chase, George, New York, N. Y.
 Chase, Ira A., Bristol, N. H.
 Chase, Nathan H., Minneapolis, Minn.
 Chase, Warren D., Hartford, Conn.
 Chatfield, Mark M., Minot, N. D.
 Cheever, Dwight B., Chicago, Ill.
 Cheney, George Nelson, Syracuse, N. Y.
 Cheney, Jerome L., Syracuse, N. Y.
 Cherry, U. S. G., Sioux Falls, S. D.
 Chester, L. F., Spokane, Wash.
 Chestnut, W. Calvin, Baltimore, Md.
 Chew, Samuel, Philadelphia, Pa.
 Chickering, W. H., San Francisco, Cal.
 Child, S. R., Minneapolis, Minn.
 Childs, Clarence H., Minneapolis, Minn.
 Childs, Edwards H., New York, N. Y.
 Childs, Frank Hall, Chicago, Ill.
 Chilton, Wm. Edwin, Charleston, W. Va.
 Chipman, Geo. E., Chicago, Ill.
 Chipman, Marcellus A., Anderson, Ind.

- Chirurg, Isidore S., New York, N. Y.
 Chittenden, Granville I., Denver, Col.
 Chittick, Henry R., New York, N. Y.
 Choate, Joseph H., New York, N. Y.
 Choate, Ward N., Detroit, Mich.
 Chretien, Frank D., New Orleans, La.
 Chrisman, Charles E., Ortonville, Minn.
 Christian, Frank P., Lynchburg, Va.
 Christopherson, Chas. A., Sioux Falls, S. Dakota.
 Chrystie, T. Ludlow, New York, N. Y.
 Church, E. Bradford, Boston, Mass.
 Church, Joseph B., Washington, D. C.
 Church, Melville, Washington, D. C.
 Churchill, Alex. L., Providence, R. I.
 Churchill, Wm. H., Milwaukee, Wis.
 Chytraus, Axel, Chicago, Ill.
 Cist, Chas. M., Cincinnati, Ohio.
 Clancy, Frank W., Albuquerque, N. M.
 Clapham, William E., Columbia City, Ind.
 Clapp, Harvey S., Duluth, Minn.
 Clapp, Newel H., St. Paul, Minn.
 Clapp, Robert P., Lexington, Mass.
 Clark, Alfred E., Portland, Ore.
 Clark, Chester W., Boston, Mass.
 Clark, E. S., Prescott, Ariz.
 Clark, Elmer C., Oswego, Kan.
 Clark, Frederic Wilson, Trinidad, Colo.
 Clark, Gibson, Cheyenne, Wyo.
 Clark, Homer C., Neillsville, Wis.
 Clark, Homer P., St. Paul, Minn.
 Clark, Hugo, Bangor, Me.
 Clark, I. R., Boston, Mass.
 Clark, Jefferson, New York, N. Y.
 Clark, Joseph H., Detroit, Mich.
 Clark, Lyman K., Boston, Mass.
 Clark, Martin, Buffalo, N. Y.
 Clark, Orlando E., Appleton, Wis.
 Clark, W. A., Virginia City, Mont.
 Clark, Washington, Columbia, S. C.
 Clarke, Arthur F., Boston, Mass.
 Clarke, Enos, St. Louis, Mo.
 Clarke, Frederick H., New York, N. Y.
 Clarke, George Lemist, Boston, Mass.
 Clarke, Henry Martyn, Boston, Mass.
 Clarke, John H., Cleveland, Ohio.
 Clarke, R. Floyd, New York, N. Y.
 Clarke, Samuel B., New York, N. Y.
 Clay, Buckner, Charleston, W. Va.
 Clay, Geo. S., New York, N. Y.
 Clay, William Law, Savannah, Ga.
 Clearwater, Alphonso T., Kingston, N. Y.
 Cleaveland, Livingston W., New Haven, Conn.
 Clement, Charles M., Sunbury, Pa.
 Clement, L. H., Salisbury, N. C.
 Clephane, Walter C., Washington, D. C.
 Cleveland, Chester E., Chicago, Ill.
 Clevenger, William M., Atlantic City, N. J.
 Clifford, Charles W., New Bedford, Mass.
 Clifford, M. L., Tacoma, Wash.
 Cliffford, Philip G., Portland Me.
 Clifton, Wiley H., Aberdeen, Miss.
 Cliggitt, John, Mason City, Iowa.
 Clinch, Edward S., New York, N. Y.
 Cline, J. D., Lake Charles, La.
 Coady, Charles P., Baltimore, Md.
 Coakley, Daniel H., Boston, Mass.
 Coale, George O. G., Boston, Mass.
 Coatsworth, Edward E., Buffalo, N. Y.
 Cobb, A. Ward, New York, N. Y.
 Cobb, Albert C., Minneapolis, Minn.
 Cobb, Andrew J., Athens, Ga.
 Cobb, W. Bruce, New York, N. Y.
 Cobbs, Thomas H., St. Louis, Mo.
 Cochran, Alexander G., St. Louis, Mo.
 Cochran, Andrew M. J., Maysville, Ky.
 Cocke, Lucian H., Roanoke, Va.
 Cockran, W. Bourke, New York, N. Y.
 Cockrell, A. W., Jr., Jacksonville, Fla.
 Cockrell, Alston, Jacksonville, Fla.
 Cockrill, Ashley, Little Rock, Ark.
 Coco, Adolph Valery, Marksville, La.
 Coffin, Herbert Lawton, New York, N. Y.
 Cohen, Abraham K., Boston, Mass.
 Cohen, D. Solis, Portland, Ore.
 Cohen, Julius Henry, New York, N. Y.
 Cohen, Max G., Portland, Ore.
 Cohen, Wm. R., New York, N. Y.
 Cohn, Morris M., Little Rock, Ark.
 Coke, Henry C., Dallas, Tex.
 Colahan, John Barry, Jr., Philadelphia, Pa.
 Colbert, Michael J., Washington, D. C.
 Colby, Bainbridge, New York, N. Y.
 Colby, James F., Hanover, N. H.
 Cole, Clarence L., Atlantic City, N. J.
 Coleman, Charles T., Little Rock, Ark.
 Coleman, Geo. S., New York City.
 Coleman, J. A., Everett, Wash.
 Coleman, Lewis Minor, Chattanooga, Tenn.
 Coleman, Phares, Montgomery, Ala.
 Coleman, W. F., Pine Bluff, Ark.
 Coles, Walter D., St. Louis, Mo.
 Colie, Edward M., Newark, N. J.
 Collier, Frederick J., Hudson, N. Y.
 Collier, Forrest F., Boston, Mass.

- Collins, Charles Cummings, St. Louis, Mo.
- Collins, Cornelius R., Michigan City, Ind.
- Collins, O. E., Colorado Springs, Col.
- Collina, Robert E., St. Louis, Mo.
- Colston, Edward, Cincinnati, Ohio.
- Colt, James D., Boston, Mass.
- Colt, LeBaron B., Providence, R. I.
- Comer, Charles P., St. Louis, Mo.
- Comerford, Frank, Chicago, Ill.
- Comfort, F. V., Stillwater, Minn.
- Comstock, Richard B., Providence, R. I.
- Conant, Ernest B., Lincoln, Neb.
- Conant, George A., Hartford, Conn.
- Condon, John T., Seattle, Wash.
- Congdon, Chester A., Duluth, Minn.
- Conklin, Marion, Jamestown, N. D.
- Connor, Henry G., Wilson, N. C.
- Conrad, Henry C., Georgetown, Del.
- Cook, Charles Sumner, Portland, Me.
- Cook, E. S., Cleveland, Ohio.
- Cook, Otis Seabury, New Bedford, Mass.
- Cook, Samuel E., Huntington, Ind.
- Cook, Wells M., Chicago, Ill.
- Cooke, Levi, Washington, D. C.
- Cooke, Robert B., Chattanooga, Tenn.
- Cooley, Chas. M., Grand Forks, N. Dak.
- Coolidge, William H., Boston, Mass.
- Cooper Drury W., New York, N. Y.
- Cooper, George P., Huntsville, Ala.
- Cooper, James A., Jr., Terre Haute, Ind.
- Cooper, John T., Parkersburg, W. Va.
- Cooper, Jos. R. W., Chicago, Ill.
- Cooper, Lawrence, Huntsville, Ala.
- Cooper, Samuel W., Philadelphia, Pa.
- Cooper, William Thomas, Philadelphia, Pa.
- Corbet, Burke, San Francisco, Cal.
- Corbett, Joseph J., Boston, Mass.
- Corbin, J. Arthur, New York, N. Y.
- Corbitt, James H., Suffolk, Va.
- Corliss, John B., Detroit, Mich.
- Cornish, Lealie C., Augusta, Me.
- Corrigan, Walter D., Milwaukee, Wis.
- Corthell, Nellis E., Laramie, Wyo.
- Corwin, John B., Newburgh, N. Y.
- Cosum, Charles F., Poughkeepsie, N. Y.
- Costigan, Edward P., Denver, Col.
- Costigan, George P., Jr., Chicago, Ill.
- Coston, J. T., Osceola, Ark.
- Cotham, Calvin T., Hot Springs, Ark.
- Cotter, James E., Boston, Mass.
- Cottingham, J. R., Oklahoma City, Okla.
- Cotton, Harry A., Brownsville, Pa.
- Cotton, Joseph B., Duluth, Minn.
- Cotton, William W., Portland, Oregon.
- Coudert, Frederic R., New York, N. Y.
- Coult, Joseph, Newark, N. J.
- Courtney, Henry A., Duluth, Minn.
- Courtney, Thomas E., Cortland, N. Y.
- Couse, Howard A., Cleveland, Ohio.
- Covell, George G., Traverse City, Mich.
- Cowan, Coleman C., Webster, N. C.
- Cowen, Israel, Chicago, Ill.
- Cowin, John C., Omaha, Neb.
- Cox, Allen M., Conneaut, Ohio.
- Cox, Arthur M., Chicago, Ill.
- Cox, Attila, Jr., Louisville, Ky.
- Cox, Eugene C., Lewiston, Ida.
- Cox, Frank, Phoenix, Ariz.
- Cox, Guy W., Boston, Mass.
- Cox, James B., Knoxville, Tenn.
- Cox, Linton A., Indianapolis, Ind.
- Cox, Rosslyn M., Middletown, N. Y.
- Cox, William J., Madisonville, Ky.
- Cox, William Ruffin, Richmond, Va.
- Coxe, Macgrane, New York, N. Y.
- Crafts, Clayton Edw., Chicago, Ill.
- Craig, Gavin W., Los Angeles, Cal.
- Craig, John E., Keokuk, Iowa.
- Craig, William T., Los Angeles, Cal.
- Crain, John H., Fort Scott, Kan.
- Crain, Robert, Baltimore, Md.
- Crain, Robert Jackson, Boston, Mass.
- Cram, Henry C., Providence, R. I.
- Crane, Albert (New York, N. Y.), Stamford, Conn.
- Crane, Alexander B., New York, N. Y.
- Crane, Frederick E., Brooklyn, N. Y.
- Crane, Jay W., Minneapolis, Minn.
- Crapo, William W., New Bedford, Mass.
- Crassweller, Arthur H., Duluth, Minn.
- Cravath, Paul D., New York, N. Y.
- Crawford, Coe I., Huron, S. D.
- Crawford, D. A., De Smet, S. D.
- Crawford, Walter J., Beaumont, Texas.
- Crawford, William W., Louisville, Ky.
- Cressy, Morton S., Chicago, Ill.
- Crews, Ralph, Chicago, Ill.
- Critchlow, Edward B., Salt Lake City, Utah.
- Crocker, George G., Boston, Mass.
- Crocker, William D., Williamsport, Pa.
- Crockett, Z. W., Bluefield, W. Va.
- Crofoot, Lodowick F., Omaha, Neb.
- Crook, W. M., Beaumont, Tex.
- Crosby, J. Porter, Boston, Mass.
- Crosby, James O., Garnaville, Iowa.
- Crosby, John C., Pittsfield, Mass.
- Crosby, Wilson G., Duluth, Minn.

- Croasley, Ferdinand S., New York, N. Y.
 Cross, David, Manchester, N. H.
 Cross, Theodore L., Utica, N. Y.
 Cross, William Irvine, Baltimore, Md.
 Crovatt, A. J., Brunswick, Ga.
 Crow, Geo. A., E. St. Louis, Ill.
 Crow, Herman D., Olympia, Wash.
 Crowder, Enoch H., Washington, D. C.
 Crowley, Edward Chase, New York, N. Y.
 Cruikshank, Alfred B., New York, N. Y.
 Crum, B. P., Montgomery, Ala.
 Crum, D. A. R., Cordele, Ga.
 Crump, Beverly T., Richmond, Va.
 Cubberly, Fred, Gainesville, Fla.
 Cullen, P. H., St. Louis, Mo.
 Cullen, W. E., Spokane, Wash.
 Culver, Frederic, New York, N. Y.
 Culver, M. Eugene, Middletown, Conn.
 Culver, Morton T., Chicago, Ill.
 Cumming, E. D., Deposit, N. Y.
 Cumming, Joseph B., Augusta, Ga.
 Cummings, Charles R., Fall River, Mass.
 Cummings, Homer S., Stamford, Conn.
 Cummins, Albert B. (U. S. Senate), Des Moines, Iowa.
 Cummins, James S., Chicago, Ill.
 Cunningham, C. A., Little Rock, Ark.
 Cunningham, Frederic, Boston, Mass.
 Cunningham, George A., Evansville, Ind.
 Cunningham, Henry C., Savannah, Ga.
 Cunningham, Henry V., Boston, Mass.
 Cunningham, T. M., Jr., Savannah, Ga.
 Curran, John P., Pittsburg, Kan.
 Curran, Patrick Paul, Providence, R. I.
 Curran, William R., Pekin, Ill.
 Currier, Guy W., Boston, Mass.
 Curtis, Frank C., Troy, N. Y.
 Curtis, Harry C., Providence, R. I.
 Curtis, Leonard E., Colorado Springs, Col.
 Curtis, W. J., New York, N. Y.
 Curtis, William Edmond, New York, N. Y.
 Curtis, William S., St. Louis, Mo.
 Oushing, Harry Alonzo, New York, N. Y.
 Oushing, Livingstone, Boston, Mass.
 Oushing, William E., Cleveland, Ohio.
 Oushman, A. V., Washington, D. C.
 Oushman, Edward E., Tacoma, Wash.
 Cusick, John F., Boston, Mass.
 Ouster, Jacob R., Chicago, Ill.
 Outhbert, Lucius M., Denver, Col.
 Cutrer, John W., Clarkedale, Miss.
 Cutting, Charles S., Chicago, Ill.
 Cutting, William H., Buffalo, Minn.
- Ouyler, Thomas DeWitt, Philadelphia, Pa.
 Dahlgren, John B., Washington, D. C.
 Dahlman, Louis A., Milwaukee, Wis.
 Daiah, John B., Washington, D. C.
 Dale, Horatio F., Des Moines, Iowa.
 Daley, A. F., Wrightsville, Ga.
 Daley, Andrew J., Luverne, Minn.
 Daly, Augustine J., Boston, Mass.
 Daly, Edward Hamilton, New York, N. Y.
 Daly, Joseph F., New York, N. Y.
 Daly, Peter F., New Brunswick, N. J.
 Dana, Samuel W., New Castle, Pa.
 Danaher, Franklin M., Albany, N. Y.
 Danaher, Michael B., Ludington, Mich.
 D'Ancona, Edward N., Chicago, Ill.
 Daney, Eugene, San Diego, Cal.
 Danforth, Geo. J., Sioux Falls, S. D.
 Daniels, Edward, Indianapolis, Ind.
 Daniels, Francis B., Chicago, Ill.
 Danson, R. J., Spokane, Wash.
 Danziger, Alfred David, New Orleans, La.
 D'Arcy, Edward, St. Louis, Mo.
 Darling, Charles K., Boston, Mass.
 Darrow, Fred. E. W., Kingston, N. Y.
 Dart, Henry P., New Orleans, La.
 Dart, Henry P. Jr., New Orleans, La.
 d'Autremont, Charles, Jr., Duluth, Minn.
 Davenport, Charles M., Boston, Mass.
 Davenport, Daniel, Bridgeport, Conn.
 Davenport, James S., Vinita, Okla.
 Davey, John C., Jr., New Orleans, La.
 David, Joseph B., Chicago, Ill.
 Davidson, Robert F., Indianapolis, Ind.
 Davidson, Samuel P., Tecumseh, Neb.
 Davidson, Theodore F., Asheville, N. C.
 Davidson, William B., Boise, Ida.
 Davies, John R., New York City.
 Davies, Joseph E., Madison, Wis.
 Davies, Julien T., New York, N. Y.
 Davis, A. C., Goldsboro, N. C.
 Davis, Albert G., Schenectady, N. Y.
 Davis, Archibald H., Atlanta, Ga.
 Davis, Brode B., Chicago, Ill.
 Davis, Charles Hall, Petersburg, Va.
 Davis, Dabney C. T., Jr., Charleston, W. Va.
 Davis, David T., New York, N. Y.
 Davis, Harold S., Boston, Mass.
 Davis, Harrison M., Boston, Mass.
 Davis, Harry C., Denver, Col.
 Davis, Henry E., Washington, D. C.
 Davis, Henry K., New York, N. Y.
 Davis, J. Lionberger, St. Louis, Mo.

- Davis, J. McCan, Springfield, Ill.
 Davis, James C., Des Moines, Iowa.
 Davis, James Edgar, Hattiesburg, Miss.
 Davis, John, Dallas, Tex.
 Davis, John A., Kosciusko, Miss.
 Davis, John W., Clarkaburg, W. Va.
 Davis, Junius, Wilmington, N. C.
 Davis, Richard B., Petersburg, Va.
 Davis, Richard J., Portsmouth, Va.
 Davis, Robert E., Gainesville, Fla.
 Davis, Samuel A., Danbury, Conn.
 Davis, Staige, Charleston, W. Va.
 Davis, Sydney B. Terre Haute, Ind.
 Davis, Thomas W., Wilmington, N. C.
 Davis, Vernon M., New York, N. Y.
 Davis, Walter M., Iowa City, Iowa.
 Davis, Walter W., Leadville, Col.
 Davis, William T., Pineville, Ky.
 Davison, Charles Stewart, New York, N. Y.
 Davison, Clarence S., Tarrytown, N. Y.
 Daw, George W., Troy, N. Y.
 Dawes, Chester M., Chicago, Ill.
 Dawkins, Walter I., Baltimore, Md.
 Dawson, Clyde C., Denver, Col.
 Dawson, William H., Baltimore, Md.
 Dawson, Wm. Sherman, Spokane, Wash.
 Day, E. C., Helena, Mont.
 Day, Harry G., New Haven, Conn.
 Day, William R. (Washington, D. C.), Canton, Ohio.
 Dean, Charles Ray, Washington, D. C.
 Dean, George C., New York, N. Y.
 Dean, Joel Edward, Rome, Ga.
 Dean, Josiah S., Boston, Mass.
 Deasy, Luere B., Bar Harbor, Me.
 Deavitt, Thos. J., Montpelier, Vt.
 Debevoise, Thomas M., New York, N. Y.
 DeBruler, Ellis, Seattle, Wash.
 Decker, Edward H., Urbana, Ill.
 Decker, Gustav F., St. Louis, Mo.
 Deckert, Henry T., Philadelphia, Pa.
 DeCourcy, Charles A., Boston, Mass.
 Deering, Henry, Portland, Me.
 Deering, James A., New York, N. Y.
 Deery, John, Dubuque, Iowa.
 Defrees, Joseph H., Chicago, Ill.
 DeGraffenried, Edward, Greensboro, Ala.
 Deiches, Maurice, New York, N. Y.
 DeKnight, Clarence W., Washington, D. C.
 DeLacy, George C., New York, N. Y.
 DeLacy, William H., Washington, D. C.
 De LaMotte, J., Duluth, Minn.
 Delle, Lee C., North Yakima, Wash.
 Deming, Horace E., New York, N. Y.
 Deming, John B., Baltimore, Md.
 Dempsey, James H., Cleveland, Ohio.
 Deneen, Charles S. (Springfield, Ill.), Chicago, Ill.
 Denègre, George, New Orleans, La.
 Denègre, James D., St. Paul, Minn.
 Denègre, Walter D., New Orleans, La.
 Denis, George J., Los Angeles, Cal.
 Denison, Arthur C., Grand Rapids, Mich.
 Denison, Howard P., Syracuse, N. Y.
 Denison, John D., Jr., Dubuque, Iowa.
 Denman, U. G., Toledo, Ohio.
 Denman, William, San Francisco, Cal.
 Dennis, James U., Baltimore, Md.
 Dennis, Jerry, Columbus, Ohio.
 Dennison, Joseph A., Boston Mass.
 Dent, S. H., Jr., Montgomery, Ala.
 Dent, Thomas, Chicago, Ill.
 Depew, Chauncey M., New York, N. Y.
 de Steiguer, George E., Seattle, Wash.
 Deutsch, Henry, Minneapolis, Minn.
 Devecmon, William C., Cumberland, Md.
 Devine, Thomas H., Pueblo, Col.
 Devitt, John F., Muscatine, Iowa.
 Dewart, Frederick W., Spokane, Wash.
 Dewey, William P., New York, N. Y.
 Dexter, Joa. P., So. Framingham, Mass.
 Dexter, Philip, Boston, Mass.
 Dexter, Stanley W., New York, N. Y.
 Dibell, Homer B., Duluth, Minn.
 Dice, Chas. S., Lewisburg, W. Va.
 Dickey, J. M., St. Paul, Minn.
 Dickey, Lyle A., Lihue, H. T.
 Dickinson, H. D., Minneapolis, Minn.
 Dickinson, J. M. (Washington, D. C.), Nashville, Tenn.
 Dickinson, J. E., Chicago, Ill.
 Dickinson, Julian G., Detroit, Mich.
 Dickinson, Marquis F., Boston, Mass.
 Dickson, Joseph, Jr., St. Louis, Mo.
 Dickson, Samuel, Philadelphia, Pa.
 Dickson, William L., Cincinnati, Ohio.
 Dickson, Wm. H., Salt Lake City, Utah.
 Diego, Jose de, Mayaguez, P. R.
 Dietrich, Frank S., Boise, Ida.
 Dietz, Nicholas, Brooklyn, N. Y.
 Dillard, F. C., Chicago, Ill.
 Dillard, John H., Murphy, N. C.
 Dillard, Wm. B., St. Helen, Ore.
 Dillaway, Wm. E. L., Boston, Mass.
 Dille, John I., Minneapolis, Minn.
 Dillon, C. W., Fayetteville, W. Va.
 Dillon, John F., New York, N. Y.
 Dillon, William, Chicago, Ill.
 Dines, Orville L., Denver, Col.

- Dines, Tyson S., Denver, Col.
 Dinkelapiel, Max, New Orleans, La.
 Dirnberger, M. F., Jr., Buffalo, N. Y.
 Dittenhoefer, A. J., New York, N. Y.
 Dittenhoefer, Irving M., New York, N. Y.
 Divet, A. G., Wahpeton, N. D.
 Dixon, John R., Denver, Col.
 Dixon, Warren, Jersey City, N. J.
 Dobson, Harvey O., Brooklyn, N. Y.
 Dockweiler, Isidore B., Los Angeles, Cal.
 Dodge, Frederic, Boston, Mass.
 Dodge, Fred B., Minneapolis, Minn.
 Dodge, Horace A., Washington, D. C.
 Dodge, John W., Jacksonville, Fla.
 Dodge, Robert Gray, Boston, Mass.
 Dodge, William W., Washington, D. C.
 Doe, Edward M., Flagstaff, Ariz.
 Doerfler, Christian, Milwaukee, Wis.
 Doggett, John L., Jacksonville, Fla.
 Dofg, David H., Jacksonville, Fla.
 Dolan, Arthur W., Boston, Mass.
 Dolan, James C., Gouverneur, N. Y.
 Donald, Malcolm, Boston, Mass.
 Donaldson, R. Golden, Washington, D. C.
 Donaldson, Wm. Jay, Knoxville, Tenn.
 Donaldson, William R., St. Louis, Mo.
 Donaldson, William R., Jr., St. Louis, Mo.
 Donaldson, John E., Bainbridge, Ga.
 Donnell, Forrest C., St. Louis, Mo.
 Donnelly, Edward A., Baltimore, Md.
 Donnelly, Henry D., New York, N. Y.
 Donnelly, John C., Detroit, Mich.
 Donworth, Clement B., Machias, Me.
 Donworth, George, Seattle, Wash.
 Doocy, Edward, Pittsfield, Ill.
 Doolan, John C., Louisville, Ky.
 Doran, Jas. P., New Bedford, Mass.
 Dorman, Wm. R., New York City.
 Dorn, Clinton R., Des Moines, Iowa.
 Dorr, C. P., Washington, D. C.
 Dorr, Charles W., Seattle, Wash.
 Dorsey, Clayton C., Denver Col.
 Dos Passos, John R., New York, N. Y.
 Doster, Frank, Topeka, Kan.
 Doub, Albert A., Cumberland, Md.
 Dougherty, Harry M., Socorro, N. M.
 Dougherty, J. Hampden, New York, N. Y.
 Douglas, Charles A., Washington, D. C.
 Douglas, Edward W., Troy, N. Y.
 Douglas, Marion, Duluth, Minn.
 Douglas, Robert M., Greensboro, N. C.
 Douglas, Samuel T., Detroit, Mich.
 Douglas, Walter B., St. Louis, Mo.
 Douglass, George L., Chicago, Ill.
 Dovell, W. T., Seattle, Wash.
 Dow, Richard Sylvester, Boston, Mass.
 Dowd, Willis Bruce, New York, N. Y.
 Dowell, Arthur E., Washington, D. C.
 Dowell, Julian C., Washington, D. C.
 Downer, Sylvester S., Reno, Nev.
 Dowse, Wm. B. H., Boston, Mass.
 Doyal, Paul Henderson, Rome, Ga.
 Doyle, Dayton A., Akron, Ohio.
 Doyle, John H., Toledo, Ohio.
 Doyle, Louis F., New York, N. Y.
 Drigga, Frederick E., Detroit, Mich.
 Drummond, Josiah H., Portland, Me.
 Dryden, John N., Kearney, Neb.
 Duane, Russell, Philadelphia, Pa.
 Dubbs, Henry A., Denver, Colo.
 Dubuisson, E. B., Opelousas, La.
 Dubuque, Hugo A., Fall River, Mass.
 Duchamp, Charles A., New Orleans, La.
 Dudley, Charles A., Des Moines, Iowa.
 Dudley, Frederick M., Seattle, Wash.
 Duell, Charles H., New York, N. Y.
 Duffield, Edward D., Newark, N. J.
 Duffy, James P. B., Rochester, N. Y.
 Dufour, H. Generes, New Orleans, La.
 Dufour, Horace L., New Orleans, La.
 Dufour, William C., New Orleans, La.
 Dugan, Patrick C., Albany, N. Y.
 Du Mars, John E., Oklahoma City, Okla.
 Dumont, Wayne (New York, N. Y.),
 Paterson, N. J.
 Dunbar, Frank Emerson, Lowell, Mass.
 Dunbar, James R., Boston, Mass.
 Dunbar, William H., Boston, Mass.
 Dundey, Charles L., Omaha, Neb.
 Dunham, Braddock H., Omaha, Neb.
 Duniway, Ralph R., Portland, Ore.
 Dunklee, George F., Denver, Col.
 Dunlap, Robert, Chicago, Ill.
 Dunlop, G. Thomas, Washington, D. C.
 Dunn, C. C., Meridian, Miss.
 Dunn, Howard H., Albert Lea, Minn.
 Dunn, Michael, Paterson, N. J.
 Dunne, Peter F., San Francisco, Cal.
 Dunnett, Alexander, St. Johnsbury, Vt.
 Dunphy W. H., Walla Walla, Wash.
 Dunscomb, Samuel Whitney, Jr., New
 York, N. Y.
 Dunton, Robert F., Belfast, Me.
 Dunwiddie, John D., Monroe, Wis.
 Dupre, Gilbert L., Jr., New Orleans, La.
 Dupre, H. Garland, New Orleans, La.
 Durand, Lorenzo T., Saginaw, E. S.,
 Mich.
 Durant, Paul D., Milwaukee, Wis.

- Durban, Frank A., Zanesville, Ohio.
 Du Belle, George, Louisville, Ky.
 Durment, Edmund S., St. Paul, Minn.
 Dutcher, Charles M., Iowa City, Iowa.
 Dutton, John A., New York, N. Y.
 Duval, Louis W., Ocala, Fla.
 Duvall, Richard Mareen, Baltimore, Md.
 Duxbury, F. A., Caledonia, Minn.
 Duxbury, W. R., St. Paul, Minn.
 Dwinnell, W. S., Minneapolis, Minn.
 Dye, John T., Indianapolis, Ind.
 Dyer, David P., St. Louis, Mo.
 Dyer, Isaac W., Portland, Me.
 Dyer, John L., El Paso, Tex.
 Dykman, William N., Brooklyn, N. Y.
 Dymond, John, Jr., New Orleans, La.
 Dynes, O. W., Chicago, Ill.
 Dyrenforth, Philip C., Chicago, Ill.
 Dyrenforth, William H., Chicago, Ill.
 Eakin, Robert, Salem, Ore.
 Earl, Otis A., Kalamazoo, Mich.
 Earle, Claude B., Anderson, S. C.
 Earle, Henry M., New York, N. Y.
 Earle, Wilton H., Greenville, S. C.
 Earley, Cornelius J., New York, N. Y.
 Early, Albert D., Rockford, Ill.
 Early, Marion C., St. Louis, Mo.
 Easley, D. M., Bluefield, W. Va.
 Eastman, Albert N., Chicago, Ill.
 Eastman, (hase), Boston, Mass.
 Eastman, E. C., Marinette, Wis.
 Eastman, Samuel C., Concord, N. H.
 Eastman, Sidney C., Chicago, Ill.
 Easton, Charles Philip, New York, N. Y.
 Easton, Robert T. B., New York, N. Y.
 Eaton, Amasa M., Providence, R. I.
 Eaton, Marquis, Chicago, Ill.
 Eaton, William V., Paducah, Ky.
 Eberhardt, Max, Chicago, Ill.
 Eckhardt, Percy B., Chicago, Ill.
 Eckstein, Joseph A., New Ulm, Minn.
 Eddy, Arthur J., Chicago, Ill.
 Eddy, Charles B., New York, N. Y.
 Edge, Lester P., Spokane, Wash.
 Edgerton, John W., New Haven, Conn.
 Edington, T. B., Memphis, Tenn.
 Edmonds, Franklin S., Philadelphia, Pa.
 Edmonds, Samuel O., New York, N. Y.
 Edmonston, William E., Washington, D. C.
 Edison, Joseph R., Washington, D. C.
 Edison, Walter H., Falconer, N. Y.
 Edwards, Clarence, Elmhurst, N. Y.
 Edwards, Davis W., Louisville, Ky.
 Edwards, Marion, Seattle, Wash.
 Edwards, Peyton F., El Paso, Tex.
 Edwards, Seeber, Providence, R. I.
 Edwards, Stephen O., Providence, R. I.
 Edwards, Verne D., Kansas City, Mo.
 Efrd, C. M., Lexington, S. C.
 Eggers, Theodore C., St. Louis, Mo.
 Ehle, Louis C., Chicago, Ill.
 Ehrhorn, Oscar W., New York, N. Y.
 Eickhoff, Henry, San Francisco, Cal.
 Einstein, B. F., New York, N. Y.
 Eisner, Michael L., Pittsfield, Mass.
 Ekern, Herman L., Madison, Wis.
 Ela, Emerson, Madison, Wis.
 Elder, Charles B., Chicago, Ill.
 Elder, Charles R., Boston, Mass.
 Elder, Samuel J., Boston, Mass.
 Eldredge, Arch Bishop, Marquette, Mich.
 Elgutter, Charles S., Omaha, Neb.
 Eliot, Edward C., St. Louis, Mo.
 Elkus, Abram I., New York, N. Y.
 Ellick, Alfred G., Omaha, Neb.
 Ellinwood, Everett E., Bisbee, Ariz.
 Elliott, Charles B., Manila, P. I.
 Elliott, George Frederick, Brooklyn, N. Y.
 Elliott, Robert L., Chicago, Ill.
 Elliott, William F., Indianapolis, Ind.
 Elliott, Wm. S., Chicago, Ill.
 Ellis, Daniel B., Denver, Col.
 Ellis, David A., Boston, Mass.
 Ellis, Fred Chas., Milwaukee, Wis.
 Ellis, George W., New York, N. Y.
 Ellis, John W., Ellicottville, N. Y.
 Ellis, S. D., Amite City, La.
 Ellis, Thomas C. W., New Orleans, La.
 Ellis, Wade H., Cincinnati, Ohio.
 Ellison, Edward D., Kansas City, Mo.
 Ellison, James, Kansas City, Mo.
 Ellison, William Bruce, New York, N. Y.
 Ellsworth, S. E., Jamestown, N. D.
 Elsberg, Nathaniel A., New York, N. Y.
 Elting, Victor, Chicago, Ill.
 Ely, Frederick D., Boston, Mass.
 Ely, John J., Freehold, N. J.
 Emerson, George H., New York, N. Y.
 Emery, John R., Morristown, N. J.
 Emery, Lucilius A., Ellsworth, Me.
 Endlich, Gustav A., Reading, Pa.
 Engelhard, Charles, Detroit, Mich.
 Englehart, Ira P., North Yakima, Wash.
 English, Conover, Newark, N. J.
 English, Lee F., Chicago, Ill.
 Ennever, Thomas C., New York, N. Y.
 Ensign, Charles S., Jr., Boston, Mass.
 Ernst, Richard P., Covington, Ky.

- Erwin, Frank Alexander, New York, N. Y.
 Eschweiler, F. C., Milwaukee, Wis.
 Ealing, Henry C., Philadelphia, Pa.
 Estabrook, Chas. E., Milwaukee, Wis.
 Estabrook, Henry D., New York, N. Y.
 Estep, Thomas B., St. Louis, Mo.
 Esterline, Blackburn, Washington, D. C.
 Estes, W. L., Texarkana, Texas.
 Ettelson, Samuel A., Chicago, Ill.
 Evans, Charles R., Chattanooga, Tenn.
 Evans, Earl W., Wichita, Kan.
 Evans, Edward B., Des Moines, Iowa.
 Evans, John Gary, Spartanburg, S. C.
 Evans, Lynden, Chicago, Ill.
 Evans, Marvin, Walla Walla, Wash.
 Evans, Rowland, Indianapolis, Ind.
 Evans, Wm. L., Green Bay, Wis.
 Everett, Edward W., Chicago, Ill.
 Everette, Willis Eugene, Tacoma, Wash.
 Everson, John, Alma, Neb.
 Ewen, John, New York, N. Y.
 Ewing, Arthur W., Madison, Minn.
 Ewing, Frank H., St. Paul, Minn.
 Ewing, Hampton D., New York, N. Y.
 Ewing, James W., Wheeling, W. Va.
 Ewing, John A., Leadville, Col.
 Ewing, John G., New York, N. Y.
 Ewing, Nathaniel, Uniontown, Pa.
 Ewing, Thomas, Jr., New York, N. Y.
 Eyges, Leon Russell, Boston, Mass.
 Faber, Leander B., Jamaica, N. Y.
 Fagan, Joseph P., Boston, Mass.
 Fairbank, Arthur B., Huron, S. D.
 Fairbanks, Charles W., Indianapolis, Ind.
 Fairchild, Arthur H., Milwaukee, Wis.
 Fairchild, Hiram O., Green Bay, Wis.
 Fairleigh, James Franklin, Louisville, Ky.
 Faisler, John, Sycamore, Ill.
 Falconer, Wm. A., Fort Smith, Ark.
 Fall, George Howard, Malden, Mass.
 Fallows, Edward H., New York, N. Y.
 Farley, John W., Memphis, Tenn.
 Farley, John Wells, Boston, Mass.
 Farley, L. J., Oxford, Miss.
 Farlow, John S., Boston, Mass.
 Farnham, Charles W., St. Paul, Minn.
 Farnham, Frank A., Boston, Mass.
 Farquhar, Guy E., Pottsville, Pa.
 Farr, George W., Miles City, Mont.
 Farrar, Edgar H., New Orleans, La.
 Farrell, C. H., Seattle, Wash.
 Farrell, Michael F., Boston, Mass.
 Farwell, John C., Chicago, Ill.
 Faulkner, Chas. J., Martinsburg, W. Va.
 Faussett, R. J., Everett, Wash.
 Fawsett, Chas. F., Milwaukee, Wis.
 Fay, Frank S., Meriden, Conn.
 Fay, Thomas P., Long Branch, N. J.
 Fearons, George H., New York, N. Y.
 Fechheimer, Charles M., Chickasha, Okla.
 Fee, Fred, Fort Pierce, Florida.
 Feely, Joseph J., Boston, Mass.
 Feliu, Leopoldo, Mayaguez, P. R.
 Fellows, Grant, Hudson, Mich.
 Felsenthal, Eli B., Chicago, Ill.
 Fenner, Charles Payne, New Orleans, La.
 Fenning, Frederick A., Washington, D. C.
 Fenning, Karl, Cleveland, Ohio.
 Fenton, Hector T., Philadelphia, Pa.
 Ferber, J. Bernard, Boston, Mass.
 Fergus, Robert C., Chicago, Ill.
 Ferguson, Garland S., Jr., Greensboro, N. C.
 Fernald, Gustavus S., Chicago, Ill.
 Ferris, Aaron A., Cincinnati, Ohio.
 Ferris, T. Harvey, Utica, N. Y.
 Ferriss, Franklin, St. Louis, Mo.
 Ferriss, Henry T., St. Louis, Mo.
 Ferson, Merton L., Iowa City, Iowa.
 Fealer, James William, Indianapolis, Ind.
 Fettretch, Joseph, New York, N. Y.
 Field, Frank Harvey, New York, N. Y.
 Field, Fred. T., Boston, Mass.
 Field, Heman H., Chicago, Ill.
 Field, Neill B., Albuquerque, N. M.
 Field, Whitcomb, Boston, Mass.
 Fiero, J. Newton, Albany, N. Y.
 File, Ashton, Beckley, W. Va.
 Finch, Edward R., New York, N. Y.
 Findley, William L., New York, N. Y.
 Fink, Charles E., Westminster, Md.
 Finney, A. C., Minneapolis, Minn.
 Fish, Daniel, Minneapolis, Minn.
 Fish, Frederick P., Boston, Mass.
 Fish, Irving A., Milwaukee, Wis.
 Fish, Norman D., North Tonawanda, N. Y.
 Fisher, D. K. Este, Baltimore, Md.
 Fisher, Frederic A., Lowell, Mass.
 Fisher, Geo. P., Chicago, Ill.
 Fisher, Hubert Frederick, Memphis, Tenn.
 Fisher, Robert J., Washington, D. C.
 Fisher, William Righter, Philadelphia, Pa.
 Fisk, R. W., Ridgefarm, Ill.
 Fiske, Andrew, Boston, Mass.
 Fitch, Theodore (New York, N. Y.),
 Yonkers, N. Y.

- FitzGerald, David E., New Haven, Conn.
 Fitzgerald, Wm. J., Scranton, Pa.
 Fitzhugh, G. T., Memphis, Tenn.
 Fitzhugh, Henry L., Fort Smith, Ark.
 Fitzpatrick, Thomas C., St. Paul, Minn.
 Fitz Simons, W. Huger, Charleston, S. C.
 Fitzwilliam, F. P., Leavenworth, Kan.
 Firman, Ezekiel, New York, N. Y.
 Flaberty, James A., Philadelphia, Pa.
 Flanders, James G., Milwaukee, Wis.
 Flanigan, Eugene D., Albany, N. Y.
 Flannery, George P., Minneapolis, Minn.
 Flannery, Henry C., Minneapolis, Minn.
 Flannery, John Spalding, Washington, D. C.
 Fleischmann, Simon, Buffalo, N. Y.
 Fleming, Francis P., Jacksonville, Fla.
 Fleming, John D., Boulder, Col.
 Fleming, Russell W., Fort Collins, Col.
 Flemming, H. H., Kingston, N. Y.
 Fletcher, Bertram L., New York City.
 Fletcher, Duncan U., Washington, D. C.
 Fletcher, John Storrs, Chattanooga, Tenn.
 Fletcher, Robert V., Chicago, Ill.
 Flewelling, Albert L., Spokane, Wash.
 Flexner, Bernard, Louisville, Ky.
 Flickinger, Isaac N., Council Bluffs, Iowa.
 Flint, Albert F., Boston, Mass.
 Floan, John P., New York, N. Y.
 Flood, H. D., Appomattox, Va.
 Florance, Ernest T., New Orleans, La.
 Flory, Walter L., Cleveland, Ohio.
 Flowers, George W., Pittsburg, Pa.
 Flowers, James N., Jackson, Miss.
 Flynn, George A., Boston, Mass.
 Flynn, Leo J., Dubuque, Iowa.
 Flynn, Thomas D., New Orleans, La.
 Foell, Chas. M., Chicago, Ill.
 Foley, James A., New York, N. Y.
 Follansbee, George A., Chicago, Ill.
 Follansbee, Mitchell D., Chicago, Ill.
 Follett, Alfred Dewey, Marietta, Ohio.
 Folsom, Henry H., Boston, Mass.
 Folsom, Myron A., Spokane, Wash.
 Foltz, Ira W., Chicago, Ill.
 Foot, O. H., Kalispell, Mont.
 Forbes, J. Grant, Boston, Mass.
 Forbush, Frank M., Boston, Mass.
 Force, H. C., Seattle, Wash.
 Ford, Wayland F., LaForgeville, N. Y.
 Fordham, Herbert L., New York, N. Y.
 Fordyce, Samuel W., Jr., St. Louis, Mo.
 Foreman, Milton J., Chicago, Ill.
 Forman, Benjamin Rice, New Orleans, La.
 Forster, Henry A., New York, N. Y.
 Fort, J. Franklin, East Orange, N. J.
 Fosses, O. A., Montevideo, Minn.
 Foss, Ernest, Newburyport, Mass.
 Foster, A. B., Troy, Ala.
 Foster, Alfred D., Boston, Mass.
 Foster, Charles E., Washington, D. C.
 Foster, Frederick, Boston, Mass.
 Foster, Israel Moore, Athens, Ohio.
 Foster, Reginald, Boston, Mass.
 Foster, Roger, New York, N. Y.
 Foster, Stephen A., Chicago, Ill.
 Fowler, Carl H., New York, N. Y.
 Fowler, Charles R., Minneapolis, Minn.
 Fowler, Chester A., Fond du Lac, Wis.
 Fowler, Everett, Kingston, N. Y.
 Fowler, James A., Washington, D. C.
 Fowler, Wm. P., Boston, Mass.
 Fox, A. F., West Point, Miss.
 Fox, Austen G., New York, N. Y.
 Fox, Charles J., St. Louis, Mo.
 Fox, Edward J., Easton, Pa.
 Fox, James C., Portland, Me.
 Fox, William Henry, Taunton, Mass.
 Fraley, Joseph C., Philadelphia, Pa.
 France, Jacob, Baltimore, Md.
 France, Joseph C., Baltimore, Md.
 Frank, Adam, New York, N. Y.
 Frank, David A., Dallas, Texas.
 Frank, Eli, Baltimore, Md.
 Frank, Robert J., Chicago, Ill.
 Frankel, Hiram D., St. Paul, Minn.
 Frankel, Louis R., St. Paul, Minn.
 Frankfurter, Felix (Washington, D. C.), New York, N. Y.
 Franklin, Benjamin, New York, N. Y.
 Franklin, Ruford, New York, N. Y.
 Franklin, Thos. H., San Antonio, Texas.
 Frantz, John Henry, Knoxville, Tenn.
 Frantzen, John P., Dubuque, Iowa.
 Fraser, Daniel, Fowler, Ind.
 Fraser, George C., New York, N. Y.
 Frasure, Nelscn W., Lancaster, Ohio.
 Frazier, J. B., Chattanooga, Tenn.
 Frazier, J. W., Tampa, Fla.
 Fredericks, John T., Williamsport, Pa.
 Freedman, John J., New York, N. Y.
 Freeman, Eben Winthrop, Portland, Me.
 Freeman, Robert R., Milwaukee, Wis.
 Freiberg, A. Julius, Cincinnati, Ohio.
 French, Arthur P., Boston, Mass.
 French, Asa P., Boston, Mass.
 French, Burton L., Moscow, Idaho.
 French, D. E., Bluefield, W. Va.
 French, Lafayette, Austin, Minn.
 French, Thomas E., Camden, N. J.

- French, William B., Boston, Mass.
 Freund, Ernst, Chicago, Ill.
 Frey, Philip W., Evansville, Ind.
 Friedman, Lee M., Boston, Mass.
 Friedrichs, Carl C., New Orleans, La.
 Friend, Charles, Milwaukee, Wis.
 Frierson, James Nelson, Columbia, S. C.
 Frierson, John F., Columbus, Miss.
 Frierson, William L., Chattanooga, Tenn.
 Frisbee, Ernest L., Buffalo, N. Y.
 Fritz, Oscar M., Milwaukee, Wis.
 Frost, E. Allen, Chicago, Ill.
 Frost, Edward W., Milwaukee, Wis.
 Frost, Frank Ravenel, Charleston, S. C.
 Frost, Hildreth, Colorado Springs, Col.
 Fuller, Charles A., Sherburne, N. Y.
 Fuller, Clifford W., Cleveland, Ohio.
 Fuller, E. Dean (Mexico City, Mexico),
 Des Moines, Iowa.
 Fuller, George, Vista, Cal.
 Fuller, Jay, Detroit, Mich.
 Fuller, Jones, Roxbury, Mass.
 Fuller, Paul, New York, N. Y.
 Fuller, Philip H., Hastings, Nebraska.
 Fuller, Pierpont, Denver, Colo.
 Fuller, Thomas Staples, New York, N. Y.
 Fuller, Wm. Hayes, McAlester, Okla.
 Fuller, Williamson W., New York, N. Y.
 Fullerton, William D., Ottawa, Ill.
 Fulton, Minitree Jones, Richmond, Va.
 Fulton, Walter S., Seattle, Wash.
 Fulwood, C. W., Tifton, Ga.
 Furlong, Wm. E., Milwaukee, Wis.
 Furlow, Thomas E., New Orleans, La.
 Furness, William Elliot, Chicago, Ill.
 Furry, J. B., Muskogee, Okla.
 Furst, William, Minneapolis, Minn.
 Fyffe, Colin C. H., Chicago, Ill.
 Gabbert, William H., Denver, Col.
 Gabel, Geo. H., Milwaukee, Wis.
 Gabriel, John H., Denver, Col.
 Gaffy, Loring E., Pierre, S. D.
 Gage, Thomas Hovey, Worcester, Mass.
 Gager, Edwin B., Derby, Conn.
 Gaillard, Wm. D., New York, N. Y.
 Gaines, Albert W., Chattanooga, Tenn.
 Gaitskill, Bennett S., Girard, Kan.
 Galbraith, Clinton A., Ada, Okla.
 Galbraith, John P., St. Paul, Minn.
 Gale, Edward C., Minneapolis, Minn.
 Gale, Noel, New York, N. Y.
 Gallagher, Charles T., Boston, Mass.
 Gallagher, Michael F., Chicago, Ill.
 Gallagher, Thomas F., Fitchburg, Mass.
 Gallaher, John A., Marietta, Ohio.
 Gallert, David J., New York, N. Y.
 Gallery, Daniel V., Chicago, Ill.
 Galston, Clarence G., New York, N. Y.
 Gandy, Newton S., Colorado Springs,
 Col.
 Gans, Edgar H., Baltimore, Md.
 Gans, Howard S., New York, N. Y.
 Gantenbein, Calvin U., Portland, Ore.
 Garcelon, William F., Boston, Mass.
 Gardner, A. K., Huron, S. D.
 Gardner, C. P., Chicago, Ill.
 Gardner, John M., New York, N. Y.
 Gardner, Percy W., Providence, R. I.
 Gardner, Rathbone, Providence, R. I.
 Garesche, Vital W., St. Louis, Mo.
 Garfield, Harry A., Williamstown, Mass.
 Garfield, James R., Cleveland, Ohio.
 Garland, Hugh A., Wilmington, Del.
 Garner, C. H., Tracy City, Tenn.
 Garnett, Theodore S., Norfolk, Va.
 Garrecht, F. A., Walla Walla, Wash.
 Gartside, John M., Chicago, Ill.
 Garver, John A., New York, N. Y.
 Garvin, William Everett, St. Louis, Mo.
 Gary, Hampson, Tyler, Texas.
 Gaskill, Robert S., Mount Holly, N. J.
 Gast, Robert S., Pueblo, Col.
 Gaston, O. C., Everett, Wash.
 Gates, Edward C., Fort Scott, Kan.
 Gates, Edward P., Independence, Mo.
 Gates, Elias, Memphis, Tenn.
 Gates, Thomas S., Philadelphia, Pa.
 Gatlry, H. Prescott, Washington, D. C.
 Gauerke, John W., Green Bay, Wis.
 Gaughan, Thomas J., Camden, Ark.
 Gautney, J. F., Jonesboro, Ark.
 Gavin, James L., Indianapolis, Ind.
 Gavin, Michael, 2d, New York, N. Y.
 Gayle, John B., Richmond, Va.
 Gazan, Simon N., Savannah, Ga.
 Gazzam, Joseph M., New York, N. Y.
 Gearin, John M., Portland, Ore.
 Gebhardt, Wm. C., Clinton, N. J.
 Geddes, Frederick L., Toledo, Ohio.
 Geiger, Ferdinand A., Milwaukee, Wis.
 Geilfuss, Carl F., Milwaukee, Wis.
 Gelsler, T. J., Portland, Ore.
 Geisthardt, Stephen L., Lincoln, Neb.
 Geller, Frederick, New York, N. Y.
 Gentry, North T., Columbia, Mo.
 George, James A., Deadwood, S. D.
 Gerard, James W., New York, N. Y.
 Gerding, George F., Knoxville, Tenn.
 Gering, Matthew, Plattsmouth, Neb.
 German, Charles W., Kansas City, Mo.

- Gerry, Elbridge T., New York, N. Y.
 Gerstein, Carl, Boston, Mass.
 Gest, John Marshall, Philadelphia, Pa.
 Gibbes, Hunter A., Columbia, S. C.
 Gibbons, Cromwell, Jacksonville, Fla.
 Gibbons, John, Chicago, Ill.
 Gibbs, Clinton B., Buffalo, N. Y.
 Gibbs, George C., Jacksonville, Fla.
 Gibson, George J., Salt Lake City, Utah.
 Gibson, James A., Los Angeles, Cal.
 Giddings, Charles, Great Barrington, Mass.
 Gifford, James M., New York, N. Y.
 Gifford, Livingston, New York, N. Y.
 Gignilliat, William L., Savannah, Ga.
 Gilbert, Lyman D., Harrisburg, Pa.
 Gilbert, Newton W., Manila, P. I.
 Gill, Archie D., Mauston, Wis.
 Gill, Henry Sterling, Greensburg, Pa.
 Gill, Roger T., Baltimore, Md.
 Gillen, William W., Jamaica, N. Y.
 Gillespie, J. Hamilton, Sarasota, Fla.
 Gilliam, Marshall M., Richmond, Va.
 Gillin, P. H., Bangor, Me.
 Gilman, Edwin C., Boston, Mass.
 Gilman, L. C., St. Paul, Minn.
 Gilmore, Eugene Allen, Madison, Wis.
 Gilpin, C. Monteith, New York, N. Y.
 Gilroy, Thos. F., Jr., New York, N. Y.
 Gilson, Norman S., Fond du Lac, Wis.
 Gjerset, Oluf, Montevideo, Minn.
 Glasgow, William A., Jr., Philadelphia, Pa.
 Glass, Hiram, Austin, Texas.
 Glasie, Henry Haywood, Washington, D. C.
 Gleason, A. H., New York, N. Y.
 Gleason, John H., Albany, N. Y.
 Gleason, W. L., New Orleans, La.
 Glead, James Willis, Topeka, Kan.
 Glen, James F., Tampa, Fla.
 Glenn, Garrard, New York, N. Y.
 Glicksman, Nathan, Milwaukee, Wis.
 Glynn, Martin H., Albany, N. Y.
 Godbey, E. W., Decatur, Ala.
 Godchaux, Emile, New Orleans, La.
 Goddard, Edwin C., Ann Arbor, Mich.
 Goddard, Luther M., Denver, Col.
 Goddard, O. Fletcher, Billings, Mont.
 Goepel, C. P., New York, N. Y.
 Goetchiuss, Henry R., Columbus, Ga.
 Goff, Guy D., Milwaukee, Wis.
 Goggins, Bernard R., Grand Rapids, Wis.
 Gold, Walter L., Milwaukee, Wis.
 Goldberg, Abraham, New Orleans, La.
 Goldman, Julius, New York, N. Y.
 Goldman, Samuel P., New York, N. Y.
 Goldeborough, Phillips Lee, Cambridge, Md.
 Goldeborough, R. F., New Orleans, La.
 Goldeborough, T. Alan, Denton, Md.
 Goldsmith, Geoffrey, Cincinnati, Ohio.
 Goodale, Francis G., Boston, Mass.
 Goodall, Henry E., Ogallala, Neb.
 Goodell, Edwin B., Montclair, N. J.
 Goodelle, William P., Syracuse, N. Y.
 Goodhue, Isaac W., New York, N. Y.
 Goodspeed, Alex. McLellan, New Bedford, Mass.
 Goodwin, Forrest, Skowhegan, Me.
 Goodwin, Henry D., Milwaukee, Wis.
 Goodwin, Robert E., Boston, Mass.
 Goodwin, Robert Tyler, Montgomery, Ala.
 Goodyear, A. F., Watseka, Ill.
 Goodykoontz, Wells, Williamson, W. Va.
 Gordon, Geo. H., LaCrosse, Wis.
 Gordon, Gordon, New York, N. Y.
 Gordon, Horace C., Tampa, Fla.
 Gordon, Maurice Kirby, Madisonville, Ky.
 Gordon, Peyton, Washington, D. C.
 Gordon, W. D., Beaumont, Texas.
 Gordon, William W., Jr., Savannah, Ga.
 Gorham, William H., Seattle, Wash.
 Gose, C. C., Walla Walla, Wash.
 Gose, M. F., Olympia, Wash.
 Gose, T. P., Walla Walla, Wash.
 Goss, Melvin C., Boulder, Col.
 Gossett, Alfred N., Kansas City, Mo.
 Gotthold, Arthur F., New York City.
 Goudy, Frank C., Denver, Col.
 Gough, Aurelian Bruce, Montpelier, Idaho.
 Gould, John H., Delphi, Ind.
 Goulder, Harvey D., Cleveland, Ohio.
 Gove, Frank E., Denver, Col.
 Grace, H. H., Superior, Wis.
 Grady, Daniel H., Portage, Wis.
 Graff, M. L., Los Angeles, Cal.
 Graham, George S., Philadelphia, Pa.
 Graham, Robert P., Baltimore, Md.
 Gram, Jesse P., New York, N. Y.
 Granberry, William L., Nashville, Tenn.
 Granger, Moses M., Zanesville, Ohio.
 Grant, Lee W., St. Louis, Mo.
 Grant, Richard F., Cleveland, Ohio.
 Grant, Walter B., Boston, Mass.
 Grantier, Jesse L., Wellsville, N. Y.
 Grassham, C. C., Paducah, Ky.
 Grau, Victor H., Duluth, Minn.
 Graves, Charles A., Univ. of Va., Charlottesville, Va.
 Graves, Frank P., Chicago, Ill.

- Graves, Henry B., Detroit, Mich.
 Graves, Will G., Spokane, Wash.
 Gray, George, Wilmington, Del.
 Gray, Henry G., New York, N. Y.
 Gray, J. Converse, Boston, Mass.
 Gray, James C., Pittsburg, Pa.
 Gray, John C., Boston, Mass.
 Gray, Robert T., Detroit, Mich.
 Gray, Roscoe Spaulding, Oakland, Cal.
 Gray, William J., Detroit, Mich.
 Graydon, Joseph S., Cincinnati, Ohio.
 Grayson, D. L., Chattanooga, Tenn.
 Greaves, H. B., Canton, Mass.
 Greeley, Arthur P., Washington, D. C.
 Greeley, Louis M., Chicago, Ill.
 Greeley, William B., New York, N. Y.
 Green, Frederick, Urbana, Ill.
 Green, Harrison S., Milwaukee, Wis.
 Green, Herbert, New York, N. Y.
 Green, J. W., Lawrence, Kan.
 Green, John W., Knoxville, Tenn.
 Green, Marcellus, Jackson, Miss.
 Greenacre, Isaiah T., Chicago, Ill.
 Greene, Frederick L., Greenfield, Mass.
 Greene, Gardiner, Norwich, Conn.
 Greene, Geo. E., Hoosick Falls, N. Y.
 Greene, George G., Green Bay, Wis.
 Greene, John E., Minot, N. Dak.
 Greene, Robert J., Lincoln, Neb.
 Greene, Roger S., Seattle, Wash.
 Greene, Thomas G., Portland, Ore.
 Greene, Warren E., Duluth, Minn.
 Greene, William P., Abbeville, S. C.
 Greenough, William B., Providence, R. I.
 Greensfelder, Bernard, St. Louis, Mo.
 Greenwell, W. A., Honolulu, Hawaii.
 Greer, D. Edward, Beaumont, Texas.
 Greer, Geo. C., Beaumont, Texas.
 Greer, R. A., Beaumont, Texas.
 Gregg, Frank E., Denver, Col.
 Gregg, Maurice, Baltimore, Md.
 Gregg, William W., Elmira, N. Y.
 Gregory, Charles Noble, Washington, D. C.
 Gregory, Henry E., New York, N. Y.
 Gregory, Roger, Eliding Green, Va.
 Gregory, Stephen S., Chicago, Ill.
 Gregory, Warren, San Francisco, Cal.
 Gresham, Otto, Chicago, Ill.
 Greve, Charles Theodore, Cincinnati, Ohio.
 Gridley, John T., Candor, N. Y.
 Gridley, Martin M., Chicago, Ill.
 Griffin, S., Bedford City, Va.
 Griffith, Warren G., Philadelphia, Pa.
 Griggs, Herbert S., Tacoma, Wash.
 Griggs, John W. (New York, N. Y.), Paterson, N. J.
 Grimes Robert H., New York, N. Y.
 Grinnan, Daniel, Richmond, Va.
 Grinnell, Charles E., Boston, Mass.
 Grinnell, Frank W., Boston, Mass.
 Groesbeck, Alex. J., Jr., Detroit, Mich.
 Groesbeck, Herman, Laramie, Wyo.
 Grosscup, Benjamin S., Tacoma, Wash.
 Grosscup, Peter S., Chicago, Ill.
 Grossman, Emanuel M., St. Louis, Mo.
 Grossman, Moses H., New York, N. Y.
 Grossman, William, New York, N. Y.
 Grozier, Joshua, Denver, Col.
 Grubbs, Charles S., Louisville, Ky.
 Gruber, Abraham, New York, N. Y.
 Guerin, M. Henry, Chicago, Ill.
 Guernsey, Nathaniel T., Des Moines, Iowa.
 Guesmer, Arnold L., Minneapolis, Minn.
 Guggenheimer, Chas. S., New York City.
 Guilgon, A. B., Richmond, Va.
 Quillcrnety, Rafael, San Juan, Porto Rico.
 Gulon, Owen H., New Bern, N. C.
 Gulick, Archibald A., New York, N. Y.
 Gunby, Edward R., Tampa, Fla.
 Gunn, Julien, Richmond, Va.
 Gunter, Julius C., Denver, Col.
 Guntor, Gaston, Montgomery, Ala.
 Gurley, Wm. F., Omaha, Neb.
 Gurley, Wm. W., Chicago, Ill.
 Guthrie, George W., Pittsburg, Pa.
 Guthrie, Thos. C., Charlotte, N. C.
 Guthrie, William A., Durham, N. C.
 Guthrie, William D., New York, N. Y.
 Hackett, Chauncey, Washington, D. C.
 Hadden, Alexander, Cleveland, Ohio.
 Hadley, A. M., Bellingham, Wash.
 Hadley, Eugene J., Boston, Mass.
 Hadley, Hiram E., Seattle, Wash.
 Hadley, Lin H., Bellingham, Wash.
 Haff, Delbert J., Kansas City, Mo.
 Haga, Oliver O., Boise, Ida.
 Hagan, Alonzo C., Uniontown, Pa.
 Hagan, Henry M., Chicago, Ill.
 Hagar, Albert Francis, New York, N. Y.
 Hagen, Eric O., Crookston, Minn.
 Hagerman, Frank, Kansas City, Mo.
 Hagerman, James, St. Louis, Mo.
 Hagerman, James, Jr., St. Louis, Mo.
 Hagerman, Lee W., St. Louis, Mo.
 Haggott, W. A., Denver, Col.
 Hagood, Benjamin A., Charleston, S. C.
 Hainer, Eugene J., Lincoln, Neb.
 Haines, Chas. H., Denver, Colo.

- Haines, Frank D., Middletown, Conn.
 Haines, Frederick T., Elkton, Maryland.
 Halbert, Clarence W., St. Paul, Minn.
 Halbert, Hugh T., St. Paul, Minn.
 Halbert, Wm. U., Belleville, Ill.
 Hale, Clarence, Portland, Me.
 Hale, Frederick, Portland, Me.
 Hale, Harry C., Little Rock, Ark.
 Hale, Richard W., Boston, Mass.
 Haley, George F., Bliddeford, Me.
 Hall, Albert M., Minneapolis, Minn.
 Hall, Allen G., Nashville, Tenn.
 Hall, Almon, Toledo, Ohio.
 Hall, Calvin S., Seattle, Wash.
 Hall, Claud D., St. Louis, Mo.
 Hall, Damon E., Boston, Mass.
 Hall, Edward Kimball, Boston, Mass.
 Hall, F. Rockwood, Boston, Mass.
 Hall, Frank B., Worcester, Mass.
 Hall, Frank M., Lincoln, Neb.
 Hall, Frederick S., Taunton, Mass.
 Hall, Henry C., Colorado Springs, Col.
 Hall, James Parker, Chicago, Ill.
 Hall, John L., Boston, Mass.
 Hall, Matthew A., Omaha, Neb.
 Hall, Walter Perley, Boston, Mass.
 Hall, William M., Pittsburg, Pa.
 Hallam, Oscar, St. Paul, Minn.
 Hallett, Moses, Denver, Col.
 Halliday, Wilbur T., Hartford, Conn.
 Halloran, James Ambrose, Boston, Mass.
 Hallowell, J. Mott, Boston, Mass.
 Halsey, Lawrence W., Milwaukee, Wis.
 Halverstadt, Dallas V., Seattle, Wash.
 Hamblen, L. R., Spokane, Wash.
 Hamblen, Lynne Ayres, Ridgway, Pa.
 Hamill, Charles H., Chicago, Ill.
 Hamilton, Alexander, Petersburg, Va.
 Hamilton, C. H., Milwaukee, Wis.
 Hamilton, George Earnest, Washington, D. C.
 Hamilton, Henry A., St. Louis, Mo.
 Hamilton, Samuel K., Boston, Mass.
 Hamilton, Wm. Scott, Fort Madison, Iowa.
 Hamlin, Charles S., Boston, Mass.
 Hamlin, Clarence C., Colorado Springs, Col.
 Hamlin, Frank, Chicago, Ill.
 Hamlin, Hannibal E., Ellsworth, Me.
 Hammersley, Chas. E., Milwaukee, Wis.
 Hammond, Edwin P., Lafayette, Ind.
 Hammond, John C., Northampton, Mass.
 Hammond, Theodore A., Atlanta, Ga.
 Hammond, William R., Atlanta, Ga.
 Hampton, Hilton S., Tampa, Fla.
 Hampton, William Wade, Gainesville, Fla.
 Hanan, John W., La Grange, Ind.
 Hanchett, Benton, Saginaw, Mich.
 Hancock, W. Scott, St. Louis, Mo.
 Hand, Morgan, Cape May Court House, N. J.
 Hand, Richard L., Elizabethtown, N. Y.
 Handly, Avery, Nashville, Tenn.
 Hanford, Cornelius H., Seattle, Wash.
 Hanford, Solomon, New York, N. Y.
 Hanley, Martin Franklin, Minneapolis, Minn.
 Hanna, Meredith, Philadelphia, Pa.
 Hanna, Richard H., Santa Fe, New Mexico.
 Hannah, Thos. C., Hattiesburg, Miss.
 Hannan, Timothy J., Milwaukee, Wis.
 Hannigan, John E., Boston, Mass.
 Hansmann, Carl A., New York, N. Y.
 Hanson, Frank H., Mauston, Wis.
 Hanten, John B., Watertown, S. D.
 Happy, Cyrus, Spokane, Wash.
 Hardin, John R., Newark, N. J.
 Harding, Charles F., Chicago, Ill.
 Hardy, Charles J., New York, N. Y.
 Hare, Montgomery, New York, N. Y.
 Hargest, William M., Harrisburg, Pa.
 Harker, Oliver A., Champaign, Ill.
 Harkless, James H., Kansas City, Mo.
 Harlan, Henry D., Baltimore, Md.
 Harlan, John Maynard, Chicago, Ill.
 Harley, Charles F., Baltimore, Md.
 Harley, Herbert, Manistee, Mich.
 Harlow, Leo P., Washington, D. C.
 Harmon, Judson, Cincinnati, Ohio.
 Harnwell, Frederick W., Chicago, Ill.
 Harper, Donald, Paris, France.
 Harper, Fred., Lynchburg, Va.
 Harper, Jacob Chandler, Cincinnati, Ohio.
 Harper, John F., Milwaukee, Wis.
 Harpham, Edwin L., Chicago, Ill.
 Harr, Wm. R., Washington, D. C.
 Harriman, Edward Avery, New Haven, Conn.
 Harrington, N. R., Bowling Green, Ohio.
 Harris, Albert H., New York, N. Y.
 Harris, Geo. B., Cleveland, Ohio.
 Harris, Henry F., Worcester, Mass.
 Harris, S. H., Oklahoma City, Okla.
 Harrison, C. Raleigh, Knoxville, Tenn.
 Harrison, George P., Opelika, Ala.
 Harrison, Randolph, Lynchburg, Va.
 Harrison, Robert L., New York, N. Y.
 Harrison, W. Benton, Talladega, Ala.
 Harrison, William B., Denver, Col.

- Harrold, James P., Chicago, Ill.
Hart, Frank Wm., New Orleans, La.
Hart, W. O., New Orleans, La.
Hartenstein, G. K., Buena Vista, Colo.
Hartigan, Michael A., Hastings, Neb.
Hartman, Charles S., Bozeman, Mont.
Hartman, John P., Seattle, Wash.
Hartman, William L., Pueblo, Col.
Hartman, W. S., Bozeman, Mont.
Hartridge, John E., Jacksonville, Fla.
Hartshorne, Charles H., Jersey City, N. J.
Hartstone, Walter, Boston, Mass.
Harvey, A. M., Topeka, Kan.
Harvey, Thos. B., St. Louis, Mo.
Harvison, William G., Des Moines, Iowa.
Harward, Frederick T., Detroit, Mich.
Harwick, Wm. H., Jacksonville, Fla.
Harwood, Edgar N., Butte, Mont.
Haskell, Frank H., Portland, Me.
Haskell, Reuben L., Brooklyn, N. Y.
Haskin, Lincoln B., Hempstead, N. Y.
Haskins, David Greene, Jr., Boston, Mass.
Hastings, H. H. A., Seattle, Wash.
Hastings, W. G., Lincoln, Neb.
Hatch, Edward W., New York, N. Y.
Hatch, Harvey B., Marquette, Mich.
Hatch, Reuben, Grand Rapids, Mich.
Hatch, William B., Ypsilanti, Mich.
Hatt, Samuel S., Albany, N. Y.
Hatton, Goodrich, Portsmouth, Va.
Haughwout, James Ard, New York, N. Y.
Haviland, C. Augustus, Brooklyn, N. Y.
Hawes, Gilbert Ray, New York, N. Y.
Hawes, T. S., Bainbridge, Ga.
Hawkes, S. N., Stockton, Kan.
Hawkins, Eugene D., New York, N. Y.
Hawkins, John J., Prescott, Ariz.
Hawkins, Prince A., Reno, Nev.
Hawkins, Roscoe O., Indianapolis, Ind.
Hawley, James H., Boise, Ida.
Hawley, Jess B., Boise City, Idaho.
Hawthorne, D. K., Jonesboro, Ark.
Hay, Eugene G. (New York, N. Y.), Minneapolis, Minn.
Hayden, James H., Washington, D. C.
Hayes, Alfred, Jr., Ithaca, N. Y.
Hayes, Alfred S., Boston, Mass.
Hayes, James H., Jr., Atlantic City, N. J.
Hayes, Thomas G., Baltimore, Md.
Hayes, William A., Milwaukee, Wis.
Hayes, William Allen, Boston, Mass.
Hayes, William M., West Chester, Pa.
Haymond, William T., Muncie, Ind.
Haynes, H. N., Greeley, Col.
Haynesworth, Henry J., Greenville, S. C.
Hays, Samuel H., Boise, Ida.
Hayt, Charles D., Denver, Col.
Hayter, Oscar, Dallas, Ore.
Hayward, Harry Woodford, New York, N. Y.
Haywood, George P., Lafayette, Ind.
Hazelton, Dallas M., Gouverneur, N. Y.
Hazard, Vernon, Monongahela, Pa.
Head, James D., Texarkana, Ark.
Healy, John J., Chicago, Ill.
Heard, Nathan, Boston, Mass.
Heath, Herbert M., Augusta, Me.
Heath, James Elliott, Norfolk, Va.
Heaton, Owen N., Fort Wayne, Ind.
Hebard, Frederic S., Chicago, Ill.
Hebert, Clarence Samuel, New Orleans, La.
Hedges, Job E., New York, N. Y.
Heffernan, John J., Woonsocket, R. I.
Heino, John R., Duluth, Minn.
Hellier, Charles E., Boston, Mass.
Helm, Lynn, Los Angeles, Cal.
Hemenway, Alfred, Boston, Mass.
Hemenway, Chas. R., Honolulu, Hawaii.
Hemingway, Wilson E., Little Rock, Ark.
Hemlock, Daniel J., Waukesha, Wis.
Hemmens, Henry J., New York, N. Y.
Hemphill, Joseph, West Chester, Pa.
Henderson, D. C., Lima, Ohio.
Henderson, G. D., Little Rock, Ark.
Henderson, George, Philadelphia, Pa.
Henderson, Hiram Hunt, Ogden, Utah.
Henderson, John Leland, Hood River, Ore.
Henderson, John M., Cleveland, Ohio.
Henderson, Robert C., Norway, Mich.
Henderson, Robert R., Cumberland, Md.
Henderson, William G., Washington, D. C.
Hendren, W. M., Winston-Salem, N. C.
Hendricks, John Albert, Poston, Minn.
Hendry, Jno. Burke (London, Eng.), Philadelphia, Pa.
Henning, Edw. J., Milwaukee, Wis.
Henriques, E. F., New Orleans, La.
Henriques, James C., New Orleans, La.
Henry, George F., Des Moines, Iowa.
Henry, John Randolph, Princeton, W. Va.
Hensel, W. U., Lancaster, Pa.
Henshaw, John, Providence, R. I.
Hepburn, Charles M. (New York, N. Y.),
Bloomington, Ind.
Herbert, John, Boston, Mass.
Herbert, R. Beverly, Columbia, S. C.
Herman, Samuel A., Winsted, Conn.
Herold, S. L., Shreveport, La.

- Herr, Willis B., Seattle, Wash.
 Herrick, John J., Chicago, Ill.
 Herrin, William J., San Francisco, Cal.
 Herring, William, Tucson, Ariz.
 Herrington, Cass E., Denver, Col.
 Herrington, Fred., Denver, Col.
 Herron, Joseph C., Kokomo, Ind.
 Hersey, Arthur U., Boston, Mass.
 Hersey, Henry J., Denver, Col.
 Hertzog, D. M., Uniontown, Pa.
 Herve, James M., Roswell, N. M.
 Herz, Philip, Portland, Ore.
 Heseltun, George W., Gardiner, Me.
 Hessberg, Albert, Albany, N. Y.
 Hewaler, Charles W., Baltimore, Md.
 Hewitt, Luther E., Philadelphia, Pa.
 Heyburn, Weldon B. (Washington, D. C.),
 Wallace, Ida.
 Hice, Agnew, Beaver, Pa.
 Hicks, James L., Monticello, Ill.
 Hicks, Thomas M. E., Williamsport, Pa.
 Hicks, Thurston T., Henderson, N. C.
 Hicks, Yale, San Antonio, Texas.
 Hieatt, Clarence C., Louisville, Ky.
 Hiester, Isaac, Reading, Pa.
 Higbee, Harry, Pittsfield, Ill.
 Higdon, John C., St. Louis, Mo.
 Higginbotham, C. C., Buckhannon,
 W. Va.
 Higinbotham, H. M., Chicago, Ill.
 Higgins, Frank M., Limerick, Me.
 Higgins, James H., Providence, R. I.
 Higgins, John C., Seattle, Wash.
 Higgins, William E., Lawrence, Kan.
 Hight, Clarence Albert, Boston, Mass.
 Hilburn, Samuel J., Palatka, Fla.
 Hildreth, Melvin A., Fargo, N. D.
 Hill, Arthur Dehon, Boston, Mass.
 Hill, Donald Mackay, Boston, Mass.
 Hill, George E., Bridgeport, Conn.
 Hill, Henry C., Lawrence, Kan.
 Hill, Henry W., Buffalo, N. Y.
 Hill, John Philip, Baltimore, Md.
 Hill, John W., Chicago, Ill.
 Hill, Joseph M., Fort Smith, Ark.
 Hill, Lyander, Chicago, Ill.
 Hill, Samuel, Portland, Ore.
 Hiles, William S., Wilmington, Del.
 Hills, George E., Boston, Mass.
 Hillyer, Chas. S., Washington, D. C.
 Hinkley, Frank L., Providence, R. I.
 Hines, Clark B., Bellville, Ohio.
 Hines, Edward W., Louisville, Ky.
 Hines, Walker D., New York, N. Y.
 Hinkley, John, Baltimore, Md.
 Hinton, Edward W., Columbia, Mo.
 Hirschberg, Henry, Newburg, N. Y.
 Hirsch, J., Vicksburg, Miss.
 Hiscok, Frank H., Syracuse, N. Y.
 Hisky, Thomas Foley, Baltimore, Md.
 Histed, Clifford, Kansas City, Mo.
 Hitch, Mayhew R., New Bedford, Mass.
 Hitch, Robert M., Savannah, Ga.
 Hitchcock, George C., St. Louis, Mo.
 Hitchcock, Loranus E., Boston, Mass.
 Hitchcock, Wm. Harold, Boston, Mass.
 Hitchings, Hector M., New York, N. Y.
 Hitt, Isaac Reynolds, Washington, D. C.
 Hitt, Rector C., Ottawa, Ill.
 Hitz, William, Washington, D. C.
 Hixson, Virgil L., Manistiquie, Mich.
 Hoadly, George, Cincinnati, Ohio.
 Hoag, Parker H., Chicago, Ill.
 Hoague, Theodore, Boston, Mass.
 Hobbs, Elon S., New York, N. Y.
 Hobbs, Fred A., South Berwick, Me.
 Hodgdon, C. W., Hoquiam, Wash.
 Hodge, J. Aspinwall, New York, N. Y.
 Hodges, Frank B., Syracuse, N. Y.
 Hodges, George L., Denver, Col.
 Hodges, Vernon E., Washington, D. C.
 Hodges, William C., Tallahassee, Fla.
 Hodges, William V., Denver, Col.
 Hoffecker, Francis H., Wilmington, Del.
 Hoffheimer, Harry M., Cincinnati, Ohio.
 Hogan, Daniel, Jr., Danville, Ill.
 Hogan, Frank J., Washington, D. C.
 Hogan, Geo. M., St. Albans, Vt.
 Hogan, Granville, St. Louis, Mo.
 Hogan, John W., Providence R. I.
 Hogate, Enoch G., Bloomington, Ind.
 Hogg, Charles E., Morgantown, W. Va.
 Hoggatt, Thomas H., Cleveland Ohio.
 Hogue Arthur S., Plattsburgh, N. Y.
 Hogue, James E., Hot Springs, Ark.
 Holbrook, Ralph S., Toledo, Ohio.
 Holcomb, Alfred E., New York, N. Y.
 Holdom, Jesse, Chicago, Ill.
 Holland, Bert E., Boston, Mass.
 Holliday, Guy H., Boston, Mass.
 Holliday, John Hodgman, St. Louis, Mo.
 Holliday, Jos. G., St. Louis, Mo.
 Hollingsworth, Charles R., Ogden, Utah.
 Hollis, Allen, Concord, N. H.
 Hollister, R. A., Oshkosh, Wis.
 Hollister, Thomas, Cincinnati, Ohio.
 Holloway, William L., Helena, Mont.
 Holman, C. Vey, Bangor, Me.
 Holman, Frederick V., Portland, Ore.
 Holman, George Wilson, Rochester, Ind.

- Holman, W. A., Charleston, S. C.
 Holme, Peter H., Denver, Colo.
 Holmes, Delevan A., New York, N. Y.
 Holmes, George, New York, N. Y.
 Holmes, J. M., St. Louis, Mo.
 Holsman, Henry B., Guthrie Center, Iowa.
 Holt, William G., Kansas City, Kan.
 Holway, Melvin Smith, Augusta, Me.
 Homans, Robert, Boston, Mass.
 Homer, Francis T., Baltimore, Md.
 Homes, Henry F., New York, N. Y.
 Hon, Daniel, Fort Smith, Ark.
 Hood, Arthur M., Indianapolis, Ind.
 Hood, Louis, Newark, N. J.
 Hood, Thomas H., Denver, Col.
 Hooper, Jos. Lawrence, Battle Creek, Mich.
 Hooper, Moses, Oshkosh, Wis.
 Hooper, S. Henry, Boston, Mass.
 Hopkins, Arthur E., Louisville, Ky.
 Hopkins, Theodore E., Burlington, Vt.
 Hopwood, R. F., Unlontown, Pa.
 Horack, H. C., Iowa City, Iowa.
 Horan, Michael J., New York, N. Y.
 Hornblower, William B., New York, N. Y.
 Hornbrook, Henry H., Indianapolis, Ind.
 Hosea, Lewis M., Cincinnati, Ohio.
 Hotchkiss, William Horace, New York, N. Y.
 Hough, Charles M., New York, N. Y.
 Hough, Warwick, M., St. Louis, Mo.
 Houghton, Frank W., Milwaukee, Wis.
 Houston, David W., Aberdeen, Miss.
 Houston, J. D., Wichita, Kan.
 Howard, Archibald, Binghamton, N. Y.
 Howard, Charles McH., Baltimore, Md.
 Howard, Charles Morris, Baltimore, Md.
 Howard, Clinton W., Bellingham, Wash.
 Howard, George H., Washington, D. C.
 Howe, Elmer P., Boston, Mass.
 Howe, James B., Seattle, Wash.
 Howe, William Reed, Orange, N. J.
 Howell, R. Boyle C., Nashville, Tenn.
 Howland, Clarence, Catskill, N. Y.
 Howland, Paul, Cleveland, Ohio.
 Howry, Charles B. (Washington, D. C.), Oxford, Miss.
 Howson, Charles, Philadelphia, Pa.
 Howze, Henry R., Birmingham, Ala.
 Hoyne, Thomas M., Chicago, Ill.
 Hoyt, Frank M., Milwaukee, Wis.
 Hoyt, James H., Cleveland, Ohio.
 Hoyt, John P., Seattle, Wash.
 Hubachek, Frank R., Minneapolis, Minn.
 Hubachek, Louis A., Minneapolis, Minn.
 Hubbard, Harry, Newton Center, Mass.
 Hubbard, Nelson C., Wheeling, W. Va.
 Hubbard, Thomas H., New York, N. Y.
 Hubbard, William P., Wheeling, W. Va.
 Huberich, Charles Henry, San Francisco, Cal.
 Hubner, Henry H., Baltimore, Md.
 Huddleston, M. P., Paragould, Ark.
 Huddy, George H., Jr., Providence, R. I.
 Hudson, E. M., New Orleans, La.
 Hudson, Frederick M., Miami, Fla.
 Hudson, James A., New York, N. Y.
 Hudson, Samuel H., Boston, Mass.
 Hudson, T. J., Fredonia, Kan.
 Huebschmann, Adolph, Milwaukee, Wis.
 Huff, C. Floyd, Hot Springs, Ark.
 Hugg, Martin M., Indianapolis, Ind.
 Hughes, Allen, Memphis, Tenn.
 Hughes, Charles E. (Washington, D. C.), New York, N. Y.
 Hughes, Clinton B., West Union, Iowa.
 Hughes, D. H., Paducah, Ky.
 Hughes, E. C., Seattle, Wash.
 Hughes, George T., Columbia, Tenn.
 Hughes, John T., Boston, Mass.
 Hughes, Robert M., Norfolk, Va.
 Hughes, Thomas, Baltimore, Md.
 Hughes, William L., New Orleans, La.
 Hughes, William W., Welch, W. Va.
 Hulbert, Robert A., Seattle, Wash.
 Hull, Charles Hadlai, New London, Conn.
 Hull, Hadlai A., New London, Conn.
 Humburg, Andrew P., Chicago, Ill.
 Hume, F. Charles, Jr., Houston, Tex.
 Humes, Augustine L., New York, N. Y.
 Hummeland, Andrew, Chicago, Ill.
 Humphrey, Burt Jay, Jamaica, N. Y.
 Humphrey, Jas. V., Junction City, Kan.
 Humphreys, John B., Paterson, N. J.
 Humphries, John E., Seattle, Wash.
 Hundley, Oscar R., Birmingham, Ala.
 Huneke, William A., Spokane, Wash.
 Hunsaker, William J., Los Angeles, Cal.
 Hunt, Carleton, New Orleans, La.
 Hunt, Chas. B., Coshocton, Ohio.
 Hunt, Charles J., Cincinnati, Ohio.
 Hunt, N. B., Dixon, Ky.
 Hunter, Ernest Howard, Philadelphia, Pa.
 Hunter, William, Tampa, Fla.
 Hunter, William R., Kankakee, Ill.
 Hunton, Epps, Jr., Richmond, Va.
 Hurd, A. A., Topeka, Kan.
 Hurd, George F., New York, N. Y.
 Hurd, Harry B., Chicago, Ill.

Hurd, Henry N., Claremont, N. H.
 Hurlbutt, Henry F., Boston, Mass.
 Hurley, Michael A., Wausau, Wis.
 Humsey, Charles Walter, Waterville, Me.
 Husted, Earl W., Everett, Wash.
 Husting, Paul O., Mayville, Wis.
 Hutchings, Chas. Frederick, Kansas City, Mo.
 Hutchings, Henry M., Boston, Mass.
 Hutchins, Harry B., Am Arbor, Mich.
 Hutchins, James C., Chicago, Ill.
 Hutchinson, Charles L., Portland, Me.
 Hutchinson, William Easton, Garden City, Kan.
 Hyde, Charles C., Chicago, Ill.
 Hyde, James W., Chicago, Ill.
 Hyde, Simeon, Charleston, S. C.
 Hyde, Wesley W., Grand Rapids, Mich.
 Hyde, William W., Hartford, Conn.
 Hyzer, E. M., Chicago, Ill.
 Ingalsbe, Grenville M., Hudson Falls, N. Y.
 Ingersoll, Alvan F., Cleveland, Ohio.
 Ingersoll, George, Duluth, Minn.
 Ingersoll, Henry H., Knoxville, Tenn.
 Ingler, Francis M., Indianapolis, Ind.
 Ingles, Paul Renau, Phoenix, Ariz.
 Ingraham, Robert J., Kansas City, Mo.
 Ingraham, William M., Portland, Me.
 Innes, Charles H., Boston, Mass.
 Irvine, Frank, Ithaca, N. Y.
 Irving, Samuel Crozier, Chicago, Ill.
 Irwin, Ernest C., Pittsburgh, Pa.
 Irwin, Richard W., Northampton, Mass.
 Isaacs, Lewis M., New York, N. Y.
 Isenbuth, William, Redfield, S. D.
 Ives, Howard E., Portland, Me.
 Ives, J. Moss, Danbury, Conn.
 Ives, Morse, Chicago, Ill.
 Jackman, Ralph W., Madison, Wis.
 Jackson, Anson B., Minneapolis, Minn.
 Jackson, Clifford L., Muskogee, Okla.
 Jackson, Edgar, Freeport, N. Y.
 Jackson, John L., Chicago, Ill.
 Jackson, R. E., Salisaw, Okla.
 Jackson, Samuel Spencer, Chicago, Ill.
 Jacobs, Philip W., Boston, Mass.
 Jacobson, Gabe, Meridian, Miss.
 Jacobson, Isaac W., New York, N. Y.
 James, Benjamin F., Bowling Green, Ohio.
 James, Eldon R., Cincinnati, Ohio.
 James, Francis B., Cincinnati, Ohio
 (Washington, D. C.).
 James, Henry A., Doylestown, Pa.

Jameson, Ovid B., Indianapolis, Ind.
 January, William L., Detroit, Mich.
 Jaquith, Harry J., Boston, Mass.
 Jayne, H. LaBarre, Philadelphia, Pa.
 Jayne, Trafford N., Minneapolis, Minn.
 Jaynes, Robert T., Walhalla, S. C.
 Jeffords, Tracy L., Harpers Ferry, W. Va.
 Jeffries, James H., Pineville, Ky.
 Jeffries, L. E., Washington, D. C.
 Jeffris, Malcolm G., Janesville, Wis.
 Jelke, Ferdinand, Jr., Cincinnati, Ohio.
 Jellinek, Edward L., Buffalo, N. Y.
 Jenckes, Thomas A., Providence, R. I.
 Jenkins, Frank E., Oxford, Mich.
 Jenkins, James G., Milwaukee, Wis.
 Jenkins, John B., Norfolk, Va.
 Jenks, James E., St. Cloud, Minn.
 Jenks, Robert D., Philadelphia, Pa.
 Jennings, Andrew J., Fall River Mass.
 Jennings, Everett, Chicago, Ill.
 Jennings, G. B., Shenandoah, Iowa.
 Jensen, Constan, Los Angeles, Cal.
 Jenswold, John, Jr., Duluth, Minn.
 Jerome, F. J., Cleveland, Ohio.
 Jessup, Henry Wynans, New York, N. Y.
 Jewett, Charles L., New Albany, Ind.
 Jewett, Stephen S., Laconia, N. H.
 Job, Thomas C., Los Angeles, Cal.
 Jochem, George J., Peoria, Ill.
 Johnson, Albin Nicholas, Freeport, N. Y.
 Johnson, Andrew, Kissimmee, Fla.
 Johnson, Arthur T., Gouverneur, N. Y.
 Johnson, B. S., Little Rock, Ark.
 Johnson, Benjamin N., Boston, Mass.
 Johnson, Branch, Norfolk, Va.
 Johnson, Charles F., Waterville, Me.
 Johnson, Charles P., St. Louis, Mo.
 Johnson, Clyde P., Cincinnati, Ohio.
 Johnson, Edwin J., New York, N. Y.
 Johnson, Frank O., McPherson, Kas.
 Johnson, George S., St. Louis, Mo.
 Johnson, Guy H., Washington, D. C.
 Johnson, Homer H., Cleveland, Ohio.
 Johnson, J. Wm. Cincinnati, Ohio.
 Johnson, James V., Little Rock, Ark.
 Johnson, John D., St. Louis, Mo.
 Johnson, Melvin M., Boston, Mass.
 Johnson, Reginald H., Boston, Mass.
 Johnson, Richard H., Boise, Ida.
 Johnson, Royal C., Highmore, S. D.
 Johnson, Simeon M., Cincinnati, Ohio.
 Johnson, Thomas Lynn, Cleveland, Ohio.
 Johnson, William T., Kansas City, Mo.
 Johnston, Fred. S., Franklin, N. C.
 Johnston, O. G., Clarksdale, Miss.

- Johnston, W. M., Billings, Mont.
 Joline, Adrian H., New York, N. Y.
 Jones, Arthur, Detroit, Mich.
 Jones, Asahel W., Burg Hill, Ohio.
 Jones, Boyd B., Boston, Mass.
 Jones, Burr W., Madison, Wis.
 Jones, Elbert O., Sioux Falls, S. D.
 Jones, Frank Cameron, Houston, Texas.
 Jones, Freeland, Bangor, Me.
 Jones, George W., Montgomery, Ala.
 Jones, Greenville D., Wausau, Wis.
 Jones, Gustave, Newport, Ark.
 Jones, Henry Craig, Washington, D. C.
 Jones, Howell, Topeka, Kan.
 Jones, J. Levering, Philadelphia, Pa.
 Jones, James C., St. Louis, Mo.
 Jones, Jas. Collins, Philadelphia, Pa.
 Jones, John J., Chanute, Kan.
 Jones, Nathaniel N., Boston, Mass.
 Jones, P. Z., Brookhaven, Miss.
 Jones, Richard A., St. Louis, Mo.
 Jones, Richard Saxe, Seattle, Wash.
 Jones, Richmond L., Reading, Pa.
 Jones, Stephen R., Boston, Mass.
 Jones, W. Clyde, Chicago, Ill.
 Jonson, Jerrold A., Madisonville, Ky.
 Jordan, Michael J., Boston, Mass.
 Joslin, Ralph Edgar, Boston, Mass.
 Joslyn, Charles D., Detroit, Mich.
 Joslyn, Charles M., Hartford, Conn.
 Joss, Frederick A., Indianapolis, Ind.
 Jourdan, Morton, St. Louis, Mo.
 Joyner, Herbert C., Great Barrington, Mass.
 Judah, Noble B., Chicago, Ill.
 Judge, Harold E., Sioux Falls, S. D.
 Judge, John E., Plattsburgh, N. Y.
 Judson, Frederick N., St. Louis, Mo.
 Junkin, Francis T. A., Chicago, Ill.
 Jutten, L. W., Los Angeles, Cal.
 Kaercher, Aaront Benj., Ortonville, Minn.
 Kagey, C. L., Beloit, Kan.
 Kahle, James S., Bluefield, W. Va.
 Kahn, Louis L., New York, N. Y.
 Kallach, Samuel, Newark, N. J.
 Kallish, Edwin L., New York, N. Y.
 Kane, Arthur M. A., Mamaroneck, N. Y.
 Kane, Francis Fisher, Philadelphia, Pa.
 Kane, Matthew J., Oklahoma City, Okla.
 Kane, Michael N., Warwick, N. Y.
 Kane, Ralph K., Noblesville, Ind.
 Kannally, Michael V., Chicago, Ill.
 Kaplan, Nathan D., Chicago, Ill.
 Kappler, Charles J., Washington, D. C.
 Karcher, George H., Chicago, Ill.
 Katz, Maurice L., Worcester, Mass.
 Kaumheimer, Wm., Milwaukee, Wis.
 Kay, James I., Pittsburg, Pa.
 Kay, William E., Jacksonville, Fla.
 Keasbey, Edward Q., Newark, N. J.
 Keasbey, George M., Newark, N. J.
 Keating, Patrick M., Jamaica Plain, Mass.
 Keaton, J. R., Oklahoma City, Okla.
 Keeble, John B., Nashville, Tenn.
 Keech, E. Parkin, Jr., Baltimore, Md.
 Keefe, Harry L., Walthill, Neb.
 Keehn, Roy D., Chicago, Ill.
 Keena, James T., Detroit, Mich.
 Keenan, Thomas J., Binghamton, N. Y.
 Keene, A. M., Fort Scott, Kan.
 Keene, Walter A., Seattle, Wash.
 Keener, William A., New York, N. Y.
 Keeney, Willard F., Grand Rapids, Mich.
 Kefover, Charles F., Uniontown, Pa.
 Kehoe, John E., Chicago, Ill.
 Kehr, Edward C., St. Louis, Mo.
 Keith, J. A. C., Warrenton, Va.
 Keith, Thomas R., Fairfax, Va.
 Kelby, James E., Los Angeles, Cal.
 Kellar, Chambers, Lead City, S. D.
 Kelleher, D. M., Fort Dodge, Iowa.
 Kelleher, Daniel, Seattle, Wash.
 Kelleher, John, Seattle, Wash.
 Kellen, William V., Cohasset, Mass.
 Keller, C. A., San Antonio, Tex.
 Keller, Charles B., Omaha, Neb.
 Kelley, C. F., Butte, Mont.
 Kelley, James Edward, Boston, Mass.
 Kelley, Thos. H., Cincinnati, Ohio.
 Kelley, William H., Richmond, Ind.
 Kellie, Ronald Scott, Detroit, Mich.
 Kellogg, Frank B., St. Paul, Minn.
 Kellogg, Harry L., Milwaukee, Wis.
 Kellogg, John P., Waterbury, Conn.
 Kellogg, Joseph A., Glens Falls, N. Y.
 Kellogg, L. Lafin, New York, N. Y.
 Kellogg, Virgil K., Watertown, N. Y.
 Kelly, George Thomas, Chicago, Ill.
 Kelly, Harry E., Denver, Col.
 Kelly, James A., New York, N. Y.
 Kelly, James J., Chicago, Ill.
 Kelly, Joseph I., Chicago, Ill.
 Kelly, Thomas, Boston, Mass.
 Kemp, Bolivar, E., Amite, La.
 Kemp, John W., Los Angeles, Cal.
 Kemp, W. Thomas, Baltimore, Md.
 Kemper, Jackson B., Milwaukee, Wis.
 Kempner, Otto, Brooklyn, N. Y.
 Kendall, Messmore, New York, N. Y.
 Kenna, Edward D., New York, N. Y.
 Kennedy, Howard, Omaha, Neb.

- Kennedy, J. A. C., Omaha, Neb.
 Kennedy, J. L., Sioux City, Iowa.
 Kennedy, Richard L., St. Paul, Minn.
 Kenneson, Thaddeus Davis, New York, N. Y.
 Kenney, Martin G., New York, N. Y.
 Kennon, Newell K., St. Clairsville, Ohio.
 Kenny, Thomas J., Boston, Mass.
 Kent, Charles A., Detroit, Mich.
 Kent, Edward, Phoenix, Ariz.
 Kent, Ralph S., Buffalo, N. Y.
 Kenyon, Alan D., New York, N. Y.
 Kenyon, J. Miller, Washington, D. C.
 Kenyon, Robert Nelson, New York, N. Y.
 Kenyon, William H., New York, N. Y.
 Kenyon, William S. (Washington, D. C.), Chicago, Ill.
 Kepperley, James E., Indianapolis, Ind.
 Kern, John W., Indianapolis, Ind.
 Kerr, James B., Portland, Ore.
 Kerr, Robert J., Chicago, Ill.
 Kerr, Thomas B., New York, N. Y.
 Kerr, William A., Minneapolis, Minn.
 Kersten, Geo., Chicago, Ill.
 Kerwin, J. C., Neenah, Wis.
 Ketcham, William A., Indianapolis, Ind.
 Keyes, Harlow W., Indiana, Neb.
 Keyser, William W., St. Louis, Mo.
 Kibler, Edward, Newark, Ohio.
 Kidder, Camillus G., New York, N. Y.
 Kiddle, Alfred W., New York, N. Y.
 Kiendl, Theodore, Brooklyn, N. Y.
 Kies, William S., Chicago, Ill.
 Killian, James R., Denver, Col.
 Killies, Henry J., Milwaukee, Wis.
 Kilsheimer, James B., New York, N. Y.
 Kilsheimer, Jas. B., Jr., New York, N. Y.
 Kimball, Benjamin, Boston, Mass.
 Kimball, F. B., Iowa City, Iowa.
 Kimball, George Everett, Boston, Mass.
 Kimble, Samuel, Manhattan, Kan.
 King, Alexander C., Atlanta, Ga.
 King, Alfred R., Denver, Col.
 King, Arno W., Ellsworth, Me.
 King, C. C., Brockton, Mass.
 King, David Bennett, New York, N. Y.
 King, Edmund B., Sandusky, Ohio.
 King, Frederick D., New Orleans, La.
 King, Frederick, P., New York, N. Y.
 King, George A., Washington, D. C.
 King, Harry E., Toledo, Ohio.
 King, Henry A., Springfield, Mass.
 King, James E., St. Louis, Mo.
 King, Louis M., Schenectady, N. Y.
 King, Robert J., Zanesville, Ohio.
 King, Samuel B., Chicago, Ill.
 King, Will R., Portland, Ore.
 King, William B., Washington, D. C.
 Kingland, Thomas A., Lake Mills, Iowa.
 Kingale, Willard, Grand Rapids, Mich.
 Kinkaid, M. P., O'Neill, Neb.
 Kinney, Cleson S., Salt Lake City, Utah.
 Kinney, Guy W., Toledo, Ohio.
 Kinsler, James C., Omaha, Neb.
 Kinsworthy, E. B., Little Rock, Ark.
 Kiplinger, John H., Rushville, Ind.
 Kirby, Daniel Noyes, St. Louis, Mo.
 Kirby, Joe, Sioux Falls, S. D.
 Kirby, Wm. F., Little Rock, Ark.
 Kirchwey, George W., New York, N. Y.
 Kirk, Clyde, Des Moines, Iowa.
 Kirlin, J. Parker, New York, N. Y.
 Kirtland, Michel, New York, N. Y.
 Kittell, John A., Green Bay, Wis.
 Kleberg, M. E., Galveston Texas.
 Klein, Henry, Kingston, N. Y.
 Kleinschmidt, R. A., Oklahoma City, Okla.
 Kleist, John C., Milwaukee, Wis.
 Kline, Julius Reynolds, Chicago, Ill.
 Kline, M. A., Cheyenne, Wyo.
 Kline, Virgil P., Cleveland, Ohio.
 Kling, Joseph, New York, N. Y.
 Klock, Geo. Sheldon, Albuquerque, N. M.
 Knappen, Loyal E., Grand Rapids, Mich.
 Knappen, Stuart E., Grand Rapids, Mich.
 Knauf, John, Jamestown, N. D.
 Knauth, Antonio, New York, N. Y.
 Kneeland, Andrew Delos, New York, N. Y.
 Knight, Edward W., Charleston, W. Va.
 Knight, Harry S., Sunbury, Pa.
 Knight, Herve S., Washington, D. C.
 Knight, Peter O., Tampa, Fla.
 Knight, Robert A., Springfield, Mass.
 Knight, Walter A., Cincinnati, Ohio.
 Knowlton, William J., Portland, Me.
 Knox, John Mason, New York, N. Y.
 Knox, Philander C. (Washington, D. C.), Pittsburg, Pa.
 Kocourek, Albert, Chicago, Ill.
 Koepke, Chas. A., Chicago, Ill.
 Kohler, Edgar J., New York, N. Y.
 Kohn, Aaron, Louisville, Ky.
 Kotts, Ernest C., Atlanta, Ga.
 Koon, Martin B., Minneapolis, Minn.
 Koons, Geo. H., Muncie, Ind.
 Kopelman, Barnett E., New York, N. Y.
 Kornegay, W. H., Vinita, Okla.
 Korns, E. B., Tracy, Minn.
 Korte, George W., Seattle, Wash.
 Kramer, Edward C., East St. Louis, Ill.

- Krauthoff, Edwin A., Kansas City, Mo.
 Krauthoff, Louis C., New York, N. Y.
 Kready, B. Frank, Lancaster, Pa.
 Kremer, Eugene G., New York, N. Y.
 Kreps, Charles A., Parkersburg, W. Va.
 Kretsinger, George W., Chicago, Ill.
 Kriete, Frank L., Chicago, Ill.
 Kriete, George H., Chicago, Ill.
 Krook, Carl G., Kingman, Ariz.
 Kuebler, Geo. J., Chicago, Ill.
 Kuhn, John J., Brooklyn, N. Y.
 Kump, H. G., Elkins, W. Va.
 Kunkle, John E., Greensburg, Pa.
 Kuraheedt, Manuel A., New York, N. Y.
 Lacey, John W., Cheyenne, Wyo.
 Lackey, Geo. W., Lawrenceville, Ill.
 Lackey, Thomas S., Uniontown, Pa.
 Lackner, Francis, Chicago, Ill.
 Lackner, Joseph L., Cincinnati, Ohio.
 Lacy, Arthur J., Detroit, Mich.
 Ladd, Nathaniel W., Boston, Mass.
 Ladd, Sanford B., Kansas City, Mo.
 Ladd, Sanford W., Detroit, Mich.
 Laffey, John P., Wilmington, Del.
 Laird, H. S., Milton, Fla.
 Lamar, Joseph R. (Washington, D. C.),
 Augusta, Ga.
 Lamar, Lucius Q. C., Havana, Cuba.
 Lamb, N. F., Jonesboro, Ark.
 Lamb, W. J., Ocoola, Ark.
 Lamb, Wm. John, Corinth, Miss.
 Lambertson, James M., Harrisburg, Pa.
 Lancaster, Charles C., Washington, D. C.
 Lancaster, George D., Chattanooga, Tenn.
 Lancaster, William A., Minneapolis,
 Minn.
 Lancaster, Wm. W., New York City.
 Land, Alfred D., New Orleans, La.
 Landale, Russell H., New York, N. Y.
 Landau, Moses David, Vicksburg, Miss.
 Lande, Louis, New York, N. Y.
 Landis, Charles I., Lancaster, Pa.
 Lane, Victor H., Ann Arbor, Mich.
 Lane, Wallace R., Chicago, Ill.
 Lane, Warren D., Seattle, Wash.
 Lane, Wilfred C., Des Moines, Iowa.
 Lane, Wolcott G., New York, N. Y.
 Langdon, Martin, Omaha, Neb.
 Larimer, Jeremiah B., Topeka, Kan.
 Larimore, John A., Minneapolis, Minn.
 Larner, John B., Washington, D. C.
 LaRoche, Walter P., Portland, Ore.
 Larrabee, Frank D., Minneapolis, Minn.
 Larson, Oscar J., Duluth, Minn.
 Lasker, Henry, Springfield, Mass.
 Laskey, J. E., Washington, D. C.
 Latham, Carl E., Chicago, Ill.
 Latham, F. E., Howard Lake, Minn.
 Lathrop, Gardiner, Chicago, Ill.
 Lauchheimer, Sylvan Hayes, Baltimore,
 Md.
 Laughlin, Matthew, Bangor, Me.
 Lauterbach, Edward, New York, N. Y.
 Lawler, Clement A., Kansas City, Mo.
 Lawler, Oscar, Washington, D. C.
 Lawrason, Samuel McC., St. Francisville,
 La.
 Lawrence, Frank L., New York, N. Y.
 Lawrence, Fred P., Skowhegan, Me.
 Lawrence, George A., Galesburg, Ill.
 Lawson, James Marshall, Aberdeen, S. D.
 Lawson, John D., Columbia, Mo.
 Lawson, Joseph A., Albany, N. Y.
 Lawton, Alexander E., Savannah, Ga.
 Lawton, Frederick, Boston, Mass.
 Laybourn, C. G., Minneapolis, Minn.
 Lazarus, Eldon S., New Orleans, La.
 Lea, Luke, Nashville, Tenn.
 Leach, Thos. A., Chicago, Ill.
 Leahy, John P., Boston, Mass.
 Leahy, John S., St. Louis, Mo.
 Leake, Hunter C., New Orleans, La.
 Leaken, William R., Savannah, Ga.
 Leakin, J. Wilson, Baltimore, Md.
 Learned, Myron L., Omaha, Neb.
 Leavitt, John Brooks, New York, N. Y.
 LeBoosky, Jacob C., Chicago, Ill.
 Leckie, A. E. L., Washington, D. C.
 Ledbetter, Walter A., Oklahoma City,
 Okla.
 Lee, Bernard L., Chicago, Ill.
 Lee, Blair (Washington, D. C.), Silver
 Spring, Md.
 Lee, Blewett, Chicago, Ill.
 Lee, Bradner W., Los Angeles, Cal.
 Lee, Chaucer G., Ames, Iowa.
 Lee, David F., Norwich, N. Y.
 Lee, Edward T., Chicago, Ill.
 Lee, John F., St. Louis, Mo.
 Lee, Paul W., Fort Collins, Col.
 Lee, Thomas Zaslaur, Providence, R. I.
 Leeds, Walter R., Los Angeles, Cal.
 Lees, Edward, Winona, Minn.
 Leffingwell, Russell C., New York, N. Y.
 Legendre, James, New Orleans, La.
 Lehmler, James S., New York, N. Y.
 Lehmann, Fred. W., St. Louis, Mo.
 Lehmann, Sears, St. Louis, Mo.
 Lemann, Monte M., New Orleans, La.
 Lemann, Walter, Donaldsville, La.
 Lemle, Gustave, New Orleans, La.

- Lenehan, Daniel J., Dubuque, Iowa.
 L'Engle, E. J., Jacksonville, Fla.
 Leo, Leopold, New York, N. Y.
 Leonard, Frederick M., Philadelphia, Pa.
 Letton, Charles B., Lincoln, Neb.
 Leverett, George V., Boston, Mass.
 Leveroni, Frank, Boston, Mass.
 Leveron, Oliver, New Salem, N. Dak.
 Levi, Joseph C., New York, N. Y.
 Levin, Jacob, Chicago, Ill.
 Levinson, Salmon O., Chicago, Ill.
 Lewis, Howard C. (London, England),
 Schenectady, N. Y.
 Levy, Aubrey, Seattle, Wash.
 Levy, Joseph L., New York, N. Y.
 Levy, Wm. B., Baltimore, Md.
 Lewenberg, Solomon, Boston, Mass.
 Lewis, Francis D., Philadelphia, Pa.
 Lewis, Fulton, Washington, D. C.
 Lewis, George Calvert, Pittsburg, Pa.
 Lewis, Henry M., Madison, Wis.
 Lewis, J. Hamilton, Chicago, Ill.
 Lewis, John F., Philadelphia, Pa.
 Lewis, Lumford L., Richmond, Va.
 Lewis, Nathan B., West Kingston, R. I.
 Lewis, Olin B., St. Paul, Minn.
 Lewis, Robert E., Denver, Col.
 Lewis, T. L., San Diego, Cal.
 Lewis, W. Draper, Philadelphia, Pa.
 Lewis, W. M., Little Rock, Ark.
 Lewis, Walter Stanford, New Orleans, La.
 Lewis, William, London, Ky.
 Lewis, Wm. H., Boston, Mass. (Washington, D. C.).
 Lewis, William L., Paterson, N. J.
 Libby, Charles F., Portland, Me.
 Libby, Jesse F., Gorham, N. H.
 Lide, L. D., Marion, S. C.
 Liebmann, Walter H., New York, N. Y.
 Light, John H., South Norwalk, Conn.
 Lightner, Clarence A., Detroit, Mich.
 Lightner, William H., St. Paul, Minn.
 Lile, William Minor, Charlottesville, Va.
 Lillard, J. W., Decatur, Tenn.
 Lilev, Charles S., Lowell, Mass.
 Lillis, Walter L., Grand Haven, Mich.
 Lincoln, Alexander, Boston, Mass.
 Lincoln, Arba N., Fall River, Mass.
 Lind, John, Minneapolis, Minn.
 Lindabury, Richard V., Newark, N. J.
 Lindley, Curtis H., San Francisco, Cal.
 Lindley, Erasmus C., St. Paul, Minn.
 Lindley, Frank, Danville, Ill.
 Lindley, Walter C., Danville, Ill.
 Lindsay, John D., New York, N. Y.
 Lindsay, Edward, Warren, Pa.
 Lindale, Henry A., Denver, Col.
 Lines, George, Milwaukee, Wis.
 Ling, Reese M., Prescott, Ariz.
 Linn, Andrew M., Washington, Pa.
 Linn, William B., Philadelphia, Pa.
 Linscott, Frank K., Boston, Mass.
 Linson, John J., Kingston, N. Y.
 Linthicum, Charles C., Chicago, Ill.
 Lionberger, Isaac H., St. Louis, Mo.
 Little, Amos R., Boston, Mass.
 Little, James C., Raleigh, N. C.
 Littlefield, Charles E., New York, N. Y.
 Littlefield, Nathan W., Providence, R. I.
 Littleton, Frank C., Indianapolis, Ind.
 Littleton, Jesse M., Winchester, Tenn.
 Lloyd, Malcolm, Jr., Philadelphia, Pa.
 Locke, James W., Jacksonville, Fla.
 Lockwood, Benoni, New York, N. Y.
 Lockwood, Chas. C., New York, N. Y.
 Lockwood, Harry A., Detroit, Mich.
 Lockwood, Virgil H., Indianapolis, Ind.
 Loeb, Leo, Charleston, W. Va.
 Loesch, Frank J., Chicago, Ill.
 Loewenthal, Max, Los Angeles, Cal.
 Loewy, Benno, New York, N. Y.
 Lonabaugh, E. E., Sheridan, Wyo.
 Long, Armistead R., Lynchburg, Va.
 Long, Augustus V., Starke, Fla.
 Long, Chester I., Wichita, Kansas.
 Long, Henry C., Boston, Mass.
 Long, Howard Marshall, Philadelphia, Pa.
 Long, Martin Henry, Jacksonville, Fla.
 Loomis, George L., Fremont, Neb.
 Loomis, N. H., Omaha, Neb.
 Loomis, Seymour C., New Haven, Conn.
 Lord, Arthur, Boston, Mass.
 Lord, Frank E., Chicago, Ill.
 Lord, Irving P., Waupaca, Wis.
 Lord, John S., Chicago, Ill.
 Lorenzen, Ernest G. (Madison, Wis.),
 New York, N. Y.
 Loring, Victor J., Boston, Mass.
 Lothrop, Thornton K., Jr., Boston, Mass.
 Loughborough, J. F., Little Rock, Ark.
 Love, C. Morup N., Wilbur, Wash.
 Lovell, Herbert M., Elmira, N. Y.
 Lovett, Robert S., New York, N. Y.
 Loving, Lucas P., Washington, D. C.
 Lowden, Frank O., Oregon, Ill.
 Lowell, James A., Boston, Mass.
 Lowell, John, Boston, Mass.
 Lowenthal, S. L., Chicago, Ill.
 Lowry, L. H. E., Youngstown, Ohio.
 Lowy, Chas. F., Chicago, Ill.
 Loyall, W. H. T., Norfolk, Va.

- Lucas, O. A., Kansas City, Mo.
 Lucas, Thomas Edward, Tampa, Fla.
 Lucas, Wm. J., East Las Vegas, N. M.
 Lucky, Cornelius E., Knoxville, Tenn.
 Ludden, William H., Spokane, Wash.
 Ludwig, John C., Milwaukee, Wis.
 Lueck, Martin L., Juneau, Wis.
 Lueders, Henry W., Tacoma, Wash.
 Luke, Roscoe, Thomasville, Ga.
 Lumbert, Wallace R., Caribou, Me.
 Lund, Charles P., Spokane, Wash.
 Lung, Henry W., Seattle, Wash.
 Lunt, Horace G., Colorado Springs, Col.
 Lustgarten, William, New York, N. Y.
 Lyford, Will H., Chicago, Ill.
 Lyles, William H., Columbia, S. C.
 Lyman, Richard E., Providence, R. I.
 Lynch, Bernard E., New Haven, Conn.
 Lynch, James J., Chattanooga, Tenn.
 Lynch, Thomas J., Augusta, Me.
 Lynde, Cornelius, Chicago, Ill.
 Lynn, John D., Rochester, N. Y.
 Lynn, Roscoe R., Little Rock, Ark.
 Lynn, Wauhope, New York, N. Y.
 Lyon, A. C., Grinnell, Iowa.
 Lyon, Adrian, Perth Amboy, N. J.
 Lyon, Jay F., Elkhorn, Wis.
 Lyon, Luther M., Payette, Ida.
 Lyon, Montague, St. Louis, Mo.
 Lyon, Walter, Pittsburg, Pa.
 Lyons, Martin, Kansas City, Mo.
 Lyster, Henry L., Detroit, Mich.
 Maass, Herbert H., New York, N. Y.
 Mabie, Clarence, Hackensack, N. J.
 Mabry, Giddings E., Tampa, Fla.
 MacChesney, Nathan William, Chicago, Ill.
 Macdonald, Eugene Spencer, New York, N. Y.
 MacEldowney, William A., Philadelphia, Pa.
 Machen, Arthur W., Jr., Baltimore, Md.
 Mack, Edwin S., Milwaukee, Wis.
 Mack, Julian W., Chicago, Ill.
 Mack, Thomas, Chicago, Ill.
 Mack, William, New York, N. Y.
 Mackall, William W., Savannah, Ga.
 Mackenzie, Kenneth K., New York, N. Y.
 Mackenzie, Thomas, Baltimore, Md.
 Mackibbin, Stuart, South Bend, Ind.
 Mackoy, Harry Brent, Cincinnati, Ohio.
 Mackoy, William H., Cincinnati, Ohio.
 MacLane, John F., Boise, Ida.
 MacLeish, John E., Chicago, Ill.
 MacLeod, Arthur Wm., Washburn, Wis.
 Macleod, William A., Boston, Mass.
 Macpherson, Ernest, Louisville, Ky.
 MacVeagh, Charles, New York, N. Y.
 Macy, John E., Boston, Mass.
 Madden, Joseph, Keene, N. H.
 Maddin, Percy D., Nashville, Tenn.
 Maddox, George Edward, Rome, Ga.
 Maddox, Samuel, Washington, D. C.
 Madigan, John B., Houlton, Me.
 Madison, E. H., Dodge City, Kan.
 Magavern, William J., Buffalo, N. Y.
 Magaw, Chas. A., Topeka, Kan.
 Magee, Henry W., Chicago, Ill.
 Magenis, James P., Boston, Mass.
 Mahaffey, J. Q., Texarkana, Texas.
 Mahan, George A., Hannibal, Mo.
 Maher, Edgar A., Grand Rapids, Mich.
 Maher, James, Chicago, Ill.
 Mahoney, Timothy J., Omaha, Neb.
 Mahony, Charles L., Chicago, Ill.
 Main, John F., Seattle, Wash.
 Mains, Frederick, Chicago, Ill.
 Major, Elliott W., Jefferson City, Mo.
 Makepeace, Walter D., Waterbury, Conn.
 Mallory, H. S. D., Selma, Ala.
 Mallory, Rollin B., Milwaukee, Wis.
 Malone, Dana, Greenfield, Mass.
 Malone, James E., Juneau, Wis.
 Malone, Thomas H., Jr., Nashville, Tenn.
 Maloney, Wm. P., New York, N. Y.
 Maloy, Wm. Milnes, Baltimore, Md.
 Maltbie, Theodore M., Hartford, Conn.
 Manchester, William C., Detroit, Mich.
 Mandeville, H. C., Elmira, N. Y.
 Manierre, George W., Chicago, Ill.
 Manly, Clement, Winston-Salem, N. C.
 Manly, George C., Denver, Col.
 Mann, Chas. D., Milwaukee, Wis.
 Mann, Edward A., Albuquerque, N. M.
 Mann, Richard H., Petersburg, Va.
 Mann, Richard M., Texarkana, Ark.
 Mann, Samuel H., Forrest City, Ark.
 Manning, James S., Durham, N. C.
 Manning, Middleton J., Little Rock, Ark.
 Mansfield, Burton, New Haven, Conn.
 Manson, Lester C., Milwaukee, Wis.
 Marbury, William L., Baltimore, Md.
 Marble, Frederick P., Lowell, Mass.
 Marcum, J. R., Huntington, W. Va.
 Marden, Oscar A., Boston, Mass.
 Marrero, L. H., Jr., New Orleans, La.
 Marsh, Samuel John, Waterbury, Conn.
 Marshall, Alexander, Duluth, Minn.
 Marshall, Edwin J., Toledo, Ohio.

- Marshall, James Markham, New York, N. Y.
 Marshall, Louis, New York, N. Y.
 Marshall, R. E. Lee, Baltimore, Md.
 Marso, Michael, Chicago, Ill.
 Marston, Thomas B., Chicago, Ill.
 Martin, Amos W., Chicago, Ill.
 Martin, Benjamin F., Anderson, S. C.
 Martin, Clarence E., Martinsburg, W. Va.
 Martin, F. L., Hutchinson, Kan.
 Martin, Francis, Chattanooga, Tenn.
 Martin, George C., Brooksville, Fla.
 Martin, H. S., Marion, Kan.
 Martin, Horace H., Chicago, Ill.
 Martin, J. Willis, Philadelphia, Pa.
 Martin, James M., Minneapolis, Minn.
 Martin, Julius C., Asheville, N. C.
 Martin, Patrick H., Green Bay, Wis.
 Martin, Thomas W., Montgomery, Ala.
 Martin, W. H., Hot Springs, Ark.
 Martin, Wesley, Webster City, Iowa.
 Martin, William J., New York, N. Y.
 Martin, William Parmenter, New York, N. Y.
 Martindale, Charles, Indianapolis, Ind.
 Martineau, Lauryat L., St. John, N. D.
 Martineau, Pierre A., Marinette, Wis.
 Marvel, David T., Wilmington, Del.
 Marvel, Josiah, Wilmington, Del.
 Marvon, O. N., Albuquerque, N. Mexico.
 Marx, Benj. L., Honolulu, Hawaii.
 Marx, Frederick Z., Chicago, Ill.
 Mason, Alfred F., St. Paul, Minn.
 Mason, Eugene G., Washington, D. C.
 Mason, Herbert Delavan, Tulsa, Okla.
 Mason, John Rogers, Bangor, Me.
 Mason, John W., Northampton, Mass.
 Mason, Norman T., Deadwood, S. D.
 Mason, Vroman, Madison, Wis.
 Mason, Wm. Clark, Philadelphia, Pa.
 Mamey, Louis C., Orlando, Fla.
 Maudie, Eugene C., Richmond, Va.
 Mastick, Seabury C., New York, N. Y.
 Matheny, James H., Springfield, Ill.
 Mathers, H. T., Sidney, Ohio.
 Matheson, Alexander E., Janesville, Wis.
 Mathews, Thos. J., Roundup, Montana.
 Mathewson, Albert McClellan, New Haven, Conn.
 Mathewson, Charles F., New York, N. Y.
 Matson, Willis A., Rochester, N. Y.
 Matters, Thomas H., Omaha, Neb.
 Matteson, Archibald C., Providence, R. I.
 Matteson, Charles, Providence, R. I.
 Matthews, C. Bentley, Cincinnati, Ohio.
 Matthews, Fred V., Portland, Me.
 Matthews, Matthew C., Dubuque, Iowa.
 Matthews, Mortimer, Cincinnati, Ohio.
 Matthews, William M., Okmulgee, Okla.
 Matz, Rudolph, Chicago, Ill.
 Mauldin, Oscar K., Greenville, S. C.
 Maxon, Glenway, Milwaukee, Wis.
 Maxwell, Evelyn C., Pensacola, Fla.
 Maxwell, John M., Denver, Col.
 Maxwell, Lawrence, Cincinnati, Ohio.
 May, Geo. Williams, Jackson, Miss.
 May, Henry F., Denver, Col.
 May, James D., Detroit, Mich.
 May, Marcus B., Boston, Mass.
 Mayer, Levy, Chicago, Ill.
 Mayes, Robert B., Jackson, Miss.
 Mayfield, J. E., Cleveland, Tenn.
 Maynard, James Jr., Knoxville, Tenn.
 Mead, Frank D., Escanaba, Mich.
 Meagher, James F., Chicago, Ill.
 Meaher, Dennis A., Portland, Me.
 Meares, Iredelle, Wilmington, N. C.
 McCartney, Harry S., Chicago, Ill.
 Mecham, John Barton, Chicago, Ill.
 Mechem, Floyd R., Chicago, Ill.
 Mechem, Geo. W., Battle Creek, Mich.
 Mechem, Merritt C., Socorro, N. Mexico.
 Meeker, Rollin W., Binghamton, N. Y.
 Megaarden, Philip T., Minneapolis, Minn.
 Mehaffy, T. M., Little Rock, Ark.
 Mehan, William A., Ballston Spa, N. Y.
 Mehlhope, Clarence E., Chicago, Ill.
 Meighen, John F. D., Albert Lea, Minn.
 Meldrim, Peter W., Savannah, Ga.
 Mellen, Chase, New York, N. Y.
 Mellen, Robert L., Bedford, Ind.
 Melville, Irving B., Denver, Colo.
 Melvin, Ridgely P., Annapolis, Md.
 Mendenhall, Mark F., Spokane, Wash.
 Mercer, Hugh V., Minneapolis, Minn.
 Merchant, Henry D., New York, N. Y.
 Mercur, Rodney A., Towanda, Pa.
 Meredith, Charles V., Richmond, Va.
 Mergentheim, Morton A., Chicago, Ill.
 Merrell, Wm. S., Coshocton, Ohio.
 Merrick, Charles D., Parkersburg, W. Va.
 Merrick, Duff, Asheville, N. C.
 Merrick, Edwin T., New Orleans, La.
 Merrick, George Peck, Chicago, Ill.
 Merrill, E. B., Duluth, Minn.
 Merrill, Jos. Hansell, Thomasville, Ga.
 Merrimon, James G., Asheville, N. C.
 Merton, Ernst, Waukesha, Wis.
 Mervine, Nicholas P., Altoona, Pa.
 Meserve, Edwin A., Los Angeles, Cal.
 Mestresat, S. Leslie, Uniontown, Pa.

- Metcalf, Charles W., Memphis, Tenn.
 Metcalf, Charles W., Pineville, Ky.
 Metcalf, William P., Memphis, Tenn.
 Metzler, Curtis G., Boston, Mass.
 Meyer, Abraham, Chicago, Ill.
 Meyer, Carl, Chicago, Ill.
 Meyer, Edward R., Zanesville, Ohio.
 Meyer, Walter E., New York, N. Y.
 Meyers, Sidney S., New York, N. Y.
 Michaels, Wm. C., Kansas City, Mo.
 Michelman, Joseph, Boston, Mass.
 Michener, Edwin O., Philadelphia, Pa.
 Michener, L. T., Washington, D. C.
 Mikell, William E., Philadelphia, Pa.
 Milburn, John G., New York, N. Y.
 Miles, Charles V., Peoria, Ill.
 Miles, Joshua W., Princess Anne, Md.
 Miles, Lovick P., Fort Smith, Ark.
 Miles, Vincent M., Fort Smith, Ark.
 Miles, Willard W., Barton, Vt.
 Miles, William P., Sidney, Neb.
 Millan, William W., Washington, D. C.
 Miller, Albert Edw., Marquette, Mich.
 Miller, Benjamin K., Milwaukee, Wis.
 Miller, Charles A., Bolivar, Tenn.
 Miller, Charles W., Holdenville, Okla.
 Miller, Charles W., Indianapolis, Ind.
 Miller, Clarence B. (Washington, D. C.),
 Duluth, Minn.
 Miller, E. Spencer, Philadelphia, Pa.
 Miller, Fred, Spokane, Wash.
 Miller, George P., Milwaukee, Wis.
 Miller, Jesse A., Des Moines, Iowa.
 Miller, John D., New Orleans, La.
 Miller, John G., Cumberland, Md.
 Miller, John S., Chicago, Ill.
 Miller, R. A., Owensboro, Ky.
 Miller, Robert N., Hazlehurst, Miss.
 Miller, Sidney T., Detroit, Mich.
 Miller, T. M., New Orleans, La.
 Miller, W. B., Chattanooga, Tenn.
 Miller, William N., Parkersburg, W. Va.
 Miller, William W., New York, N. Y.
 Milliken, John D., Denver, Col.
 Millikin, E. E., Los Angeles, Cal.
 Milling, R. E., New Orleans, La.
 Millis, Wade, Detroit, Mich.
 Mills, Allen G., Chicago, Ill.
 Milner, Purnell M., New Orleans, La.
 Milnor, M. Clelland, New York, N. Y.
 Minahan, Edmund D., Rhinelander, Wis.
 Miner, Sidney E., Wilkesbarre, Pa.
 Minis, Abram, Savannah, Ga.
 Minor, Benjamin S., Washington, D. C.
 Minor, H. Dent, Memphis, Tenn.
 Minor, Raleigh C., Charlottesville, Va.
 Minor, Wirt, Portland, Ore.
 Minton, Francis L., New York, N. Y.
 Mitchell, Henry L., Bangor, Me.
 Mitchell, J. K., Osborne, Kan.
 Mitchell, John M., Concord, N. H.
 Mitchell, John R., Olympia, Wash.
 Mitchell, Joseph V., New York, N. Y.
 Mitchell, Oscar, Duluth, Minn.
 Mitchell, Robert Chamberlain, New York,
 N. Y.
 Mitchell, William D., St. Paul, Minn..
 Mix, George E., St. Louis, Mo.
 Moats, Francis P., Parkersburg, W. Va.
 Mocquot, James Dennis, Paducah, Ky.
 Moffat, R. Burnham, New York, N. Y.
 Moffit, John T., Tipton, Iowa.
 Mohun, Barry, Washington, D. C.
 Moine, A. E., Iowa City, Iowa.
 Moloney, Robert E., St. Louis, Mo.
 Monnette, Orra E., Los Angeles, Cal.
 Monohan, James, Minneapolis, Minn.
 Monroe, Charles, Los Angeles, Cal.
 Monroe, Chas. E., Milwaukee, Wis.
 Monroe, J. Blanc, New Orleans, La.
 Montague, Richard W., Portland, Ore.
 Monteith, George E., Bruhaton, N. Y.
 Montgomery, Carroll S., Omaha, Neb.
 Montgomery, J. A., Fargo, N. D.
 Montgomery, John R., Chicago, Ill.
 Montgomery, Oscar H., Seymour, Ind.
 Montgomery, Richard B., New Orleans, La.
 Montgomery, Samuel A., New Orleans, La.
 Moody, Cary C., Indianola, Miss.
 Moody, Paul B., Detroit, Mich.
 Moonan, John, Waseca, Minn.
 Mooney, Edmund L., New York, N. Y.
 Mooney, Henry, New Orleans, La.
 Moore, Albert R., St. Paul, Minn.
 Moore, Charles A., Asheville, N. C.
 Moore, Chas. Sumner, Atlantic City, N. J.
 Moore, F. A., Salem, Ore.
 Moore, Felix W., Union City, Tenn.
 Moore, Fred W., Boston, Mass.
 Moore, Frederick W., Chicago, Ill.
 Moore, Henry, Texarkana, Ark.
 Moore, I. D., New Orleans, La.
 Moore, J. McCabe, Kansas City, Kan.
 Moore, John Bassett, New York, N. Y.
 Moore, John M., Little Rock, Ark.
 Moore, Joseph B., Lansing, Mich.
 Moore, Joseph E., Thomaston, Me.
 Moore, Langdon, Washington, D. C.

- Moore, Samuel E. N., Johnson City, Tenn.
- Moore, William F., Guthrie Center, Iowa.
- Moore, Charles W., Indianapolis, Ind.
- Moore, Merrill, Indianapolis, Ind.
- Moorhead, Forest G., Beaver, Pa.
- Moorhead, Harley G., Omaha, Neb.
- Moose, William L., Morillton, Ark.
- Moot, Adelbert, Buffalo, N. Y.
- Morales, Luis Munoz, San Juan, P. R.
- Moran, D. J., Hammond, Ind.
- Mordecai, T. Moultrie, Charleston, S. C.
- More, Clair E., Chicago, Ill.
- More, R. Wilson, Chicago, Ill.
- Morgan, Charles E., Jr., Philadelphia, Pa.
- Morgan, Frank L., Hoquiam, Wash.
- Morgan, George Wilson, New York, N. Y.
- Morgan, Henry A., Albert Lea, Minn.
- Morgan, Randall, Philadelphia, Pa.
- Morgan, William A., Providence, R. I.
- Morgan, William B., Trinidad, Col.
- Morphy, E. Howard, St. Paul, Minn.
- Morrill, Donald L., Chicago, Ill.
- Morrill, John A., Auburn, Me.
- Morris, C. J., Sioux Falls, S. D.
- Morris, Chas. M., Milwaukee, Wis.
- Morris, Herman W., Rochester, N. Y.
- Morris, Henry C., Chicago, Ill.
- Morris, John, Fort Wayne, Ind.
- Morris, Robert C., New York, N. Y.
- Morris, Roland S., Philadelphia, Pa.
- Morrison, Edmund D., Washington, Iowa.
- Morrison, Robert E., Prescott, Ariz.
- Morrison, Samuel, Seattle, Wash.
- Morrow, Dwight W., New York, N. Y.
- Morrow, Robert G., Portland, Ore.
- Morchauser, Joseph, Poughkeepsie, N. Y.
- Morse, Chas. F., Chicago, Ill.
- Morse, Frank R., Cincinnati, Ohio.
- Morse, Robert M., Boston, Mass.
- Morse, Waldo G., New York, N. Y.
- Morse, William A., Boston, Mass.
- Morsell, Arthur L., Milwaukee, Wis.
- Moruman, Edgar M., Jr., Omaha, Neb.
- Morton, Elbert C., Columbus, Ohio.
- Morton, Geo. E., Milwaukee, Wis.
- Morton, James M., Jr., Fall River, Mass.
- Morton, Marcus, Boston, Mass.
- Morton, William O., Los Angeles, Cal.
- Moses, Jacob M., Baltimore, Md.
- Moses, Joseph W., Chicago, Ill.
- Mosesohn, David N., Portland, Ore.
- Mosher, Lewis E., Elmira, N. Y.
- Mosler, John H., Muskogee, Okla.
- Moss, Frank, New York, N. Y.
- Mosser, Edwin J., Chicago, Ill.
- Mott, Mayhew, Neenah, Wis.
- Mott-Smith, Ernest A., Honolulu, Hawaii.
- Mouat, Malcolm O., Janesville, Wis.
- Mountcastle, R. E. L., Knoxville, Tenn.
- Mowatt, Fred. W., Boston, Mass.
- Mower, George Sewall, Newberry, S. C.
- Mueller, Oscar O., Los Angeles, Cal.
- Muhlfelder, David, Albany, N. Y.
- Mulkey, Frederick W., Portland, Ore.
- Mullen, William E., Cheyenne, Wyo.
- Muller, Henry A., Sioux Falls, S. D.
- Mullin, Francis B., Brooklyn, N. Y.
- Mullin, Michael A., Baltimore, Md.
- Mulvane, David W., Topeka, Kan.
- Mumford, Charles C., Providence, R. I.
- Munday, Charles F., Seattle, Wash.
- Munger, William H., Omaha, Neb.
- Munn, George Ladd, Seattle, Wash.
- Munroe, James M., Annapolis, Md.
- Munson, O. LaRue, Williamsport, Pa.
- Murchie, Guy, Boston, Mass.
- Murdock, John S., Providence, R. I.
- Murphy, Charles J., Grand Forks, N. D.
- Murphy, Daniel D., Elkader, Iowa.
- Murphy, George A., Muskogee, Okla.
- Murphy, James B., Seattle, Wash.
- Murphy, James Dixon, Asheville, N. C.
- Murray, A. Gordon, New York, N. Y.
- Murray, Charles A., Tacoma, Wash.
- Murray, Patrick F., Chicago, Ill.
- Murray, Wm. F., Boston, Mass.
- Murrell, William M., Lynchburg, Va.
- Murtha, Thomas F., New York, N. Y.
- Musgrave, Harrison, Chicago, Ill.
- Myers, James J., Boston, Mass.
- Myers, Nathaniel, New York, N. Y.
- Myers, Quincy A., Logansport, Ind.
- Myers, T. Percy, Washington, D. C.
- Myrick, N. Sumner, Boston, Mass.
- McAllister, Henry, Jr., Denver, Col.
- McAllister, James T., Grand Rapids, Mich.
- McAlpin, Henry, Savannah, Ga.
- McAlpine, John W., Mobile, Ala.
- McAnarney, John W., Boston, Mass.
- McArdle, P. L., Chicago, Ill.
- McBaine, J. P., Columbia, Mo.
- McBean, Archibald J. F., Chicago, Ill.
- McBride, Robt. W., Indianapolis, Ind.
- McCaffrey, Joseph J., Providence, R. I.
- McCaleb, J. B., Batesville, Ark.
- McCalmont, Edward S., Washington, D. C.
- McCamant, Wallace, Portland, Oregon.

- McCamie, Charles, Wheeling, W. Va.
 McCarter, Edward B. (7 New Square, Lincoln's Inn, London, E. C.).
 McCarter, Robert H., Newark, N. J.
 McCarthy, Charles T., Glen Cove, N. Y.
 McCarthy, M. B., Toledo, Ohio.
 McChesney, S. P., St. Louis, Mo.
 McClain, Emlin, Iowa City, Iowa.
 McClay, Samuel, Pittsburg, Pa.
 McClenahan, William S., Brainerd, Minn.
 McClench, William W., Springfield, Mass.
 McClendon, James W., Austin, Tex.
 McClennen, Edward F., Boston, Mass.
 McClintock, Andrew H., Wilkes-Barre, Pa.
 McClintock, J. M., Devall Bluff, Ark.
 McClintock, W. S., Topeka, Kan.
 McCloskey, Bernard, New Orleans, La.
 McCloud, Richard, Durango, Colo.
 McClung, Wm. H., Pittsburg, Pa.
 McClure, Harold M., Lewisburg, Pa.
 McClure, Henry F., Seattle, Wash.
 McClure, Walter A., Seattle, Wash.
 McClure, William E., Seattle, Wash.
 McClurg, Monroe, Greenwood, Miss.
 McCombs, William F., New York, N. Y.
 McConlogue, James H., Mason City, Iowa.
 McConnell, James, New Orleans, La.
 McConnell, James E., Boston, Mass.
 McConnell, John E., LaCrosse, Wis.
 McCook, Philip James, New York, N. Y.
 McCord, E. S., Seattle, Wash.
 McCordic, Alfred E., Chicago, Ill.
 McCormick, Joseph Manson, Dallas, Tex.
 McCormick, Robert H., Jr., Chicago, Ill.
 McCouch, H. Gordon, Philadelphia, Pa.
 McCrary, A. J., Binghamton, N. Y.
 McCrea, Wm. M., Salt Lake City, Utah.
 McCreery, James W., Greeley, Col.
 McCroskey, R. L., Colfax, Wash.
 McCulloh, Allan, New York, N. Y.
 McCullough, John G., No. Bennington, Vt.
 McDermott, Edward J., Louisville, Ky.
 McDermott, Frank P., Jersey City, N. J.
 McDewitt, John J., Jr., Philadelphia, Pa.
 McDonald, Charles G., Omaha, Neb.
 McDonald, E. E., Bemidji, Minn.
 McDonald, Edward L., Louisville, Ky.
 McDonald, Jesse, St. Louis, Mo.
 McDonald, Will T., Bay St. Louis, Miss.
 McDonnell, Thos. F. I., Providence, R. I.
 McDonough, Charles A., Boston, Mass.
 McDonough, Frank, Sr., Denver, Col.
 McDonough, James B., Fort Smith, Ark.
 McDougal, D. A., Sapulpa, Okla.
 McDougale, Walter E., Parkersburg, W. Va.
 McDowell, James R., Jackson, Miss.
 McElheny, Victor K., Jr., New York, N. Y.
 McElroy, John H., Chicago, Ill.
 McEvoy, John W., Lowell, Mass.
 McEwen, Willard M., Chicago, Ill.
 McGarry, Thomas F., Jacksonville, Fla.
 McGee, Charles A. A., Milwaukee, Wis.
 McGee, George A., Minot, N. D.
 McGee, J. F., Minneapolis, Minn.
 McGeech, Arthur N., West Allis, Wis.
 McGill, J. Nota, Washington, D. C.
 McGoorty, John P., Chicago, Ill.
 McGovern, Francis E., Madison, Wis.
 McGraw, John T., Grafton, W. Va.
 McGregor, Major, Chicago, Ill.
 McGuire, Frank L., New London, Conn.
 McGuire, Horace, Rochester, N. Y.
 McGuirk, Arthur, New Orleans, La.
 McHaney, Edgar L., Little Rock, Ark.
 McHugh, Charles A., Roanoke, Va.
 McHugh, Philip A., Detroit, Mich.
 McHugh, William D., Omaha, Neb.
 McIlvaine, Alan C., Chicago, Ill.
 McIlvaine, Tompkins, New York, N. Y.
 McInnes, Edwin G., Boston, Mass.
 McIntosh, James H., New York, N. Y.
 McIntyre, John F., New York, N. Y.
 McKay, Kenneth I., Tampa, Fla.
 McKeehan, Joseph P., Carlisle, Pa.
 McKelvey, Charles W., New York, N. Y.
 McKelvey, Lawrence B., Saratoga Springs, N. Y.
 McKenna, Thomas P., New York, N. Y.
 McKenney, Frederic D., Washington, D. C.
 McKenzie, H. B., Prescott, Ark.
 McKenzie, John, Minneapolis, Minn.
 McKeown, John A., Chicago, Ill.
 McKinley, J. W., Los Angeles, Cal.
 McKinney, William M., Northport, N. Y.
 McKisson, Robert Erasmus, Cleveland, Ohio.
 McKnight, Wm. F., Grand Rapids, Mich.
 McKnight, Richard, Denver, Col.
 McLanahan, George X., Washington, D. C.
 McLarren, Irvine Green, Eastport, Me.
 McLaughlin, A. A., Des Moines, Iowa.
 McLaughlin, John D., Boston, Mass.
 McLaughlin, Patrick J., St. Paul, Minn.
 McLaurin, Lauch, Austin, Tex.
 McLaurin, R. L., Vicksburg, Miss.
 McLean, Donald, New York, N. Y.

- McLean, Hugh, Denver, Colo.
 McLeod, W. D., Kansas City, Mo.
 McLoughlin, James J., New Orleans, La.
 McMahon, Fulton, New York, N. Y.
 McMahon, J. Sprigg, Dayton, Ohio.
 McMahon, John D., Rome, N. Y.
 McMahon, John J., Washington, D. C.
 McManus, Terence J., New York, N. Y.
 McMicken, Maurice, Seattle, Wash.
 McMillan, John W., Milwaukee, Wis.
 McMillan, Philip H., Detroit, Mich.
 McMillan, Raymond J., Tacoma, Wash.
 McMorrough, G. H., Lexington, Miss.
 McMullen, Donald C., Tampa, Fla.
 McMurdy, Robert, Chicago, Ill.
 McMurray, Will, Laramie, Wyo.
 McNamara, D. W., Montello, Wis.
 McNary, John H., Salem, Ore.
 McNulty, William D., New York, N. Y.
 McNutt, John F., Rockwood, Tenn.
 McPheely, John L., Minden, Neb.
 McPheeters, Thomas S., St. Louis, Mo.
 McPherson, Smith, Red Oak, Iowa.
 McQuillan, George F., Portland, Me.
 McRae, Thomas C., Prescott, Ark.
 McReynolds, James C. (New York, N. Y.), Nashville, Tenn.
 McSurely, William H., Chicago, Ill.
 McSwain, J. J., Greenville, S. C.
 McTeer, Will A., Maryville, Tenn.
 McWhorter, Hamilton, Athens, Ga.
 McWhorter, Henry C., Charleston, W. Va.
 McWilliams, Howard, New York, N. Y.
 Naber, Emil H., Mayville, Wis.
 Nagel, Charles (Washington, D. C.), St. Louis, Mo.
 Nardin, William T., St. Louis, Mo.
 Nash, Archie L., Manitowoc, Wis.
 Nash, Dudley L., Minot, N. Dak.
 Nash, Edwin G., Manitowoc, Wis.
 Nash, Lyman J., Manitowoc, Wis.
 Nathan, Edgar J., New York, N. Y.
 Nathan, Harold, New York, N. Y.
 Kaumburg, Bernard, New York, N. Y.
 Nay, Frank N., Boston, Mass.
 Neal, Geo. I., Huntington, W. Va.
 Neale, George H., Bisbee, Ariz.
 Neelen, Neele B., Milwaukee, Wis.
 Negroni, J. Salvador Amill, Mayaguez, P. R.
 Neiger, J. J., Virginia, Ill.
 Nell, M. M., Trenton, Tenn.
 Neilson, William D., Philadelphia, Pa.
 Nells, Andrew J., Albany, N. Y.
 Nelson, Patrick H., Columbia, S. C.
 Nelson, Roscoe C., Portland, Ore.
 Nelson, William S., Columbia, S. C.
 Nemmers, E. P., Milwaukee, Wis.
 Neville, Arthur Courtenay, Green Bay, Wis.
 New, Alexander, Kansas City, Mo.
 Newbegin, Henry, Defiance, Ohio.
 Newberger, Louis, Indianapolis, Ind.
 Newcomb, Geo. Eddy, Chicago, Ill.
 Newcomb, H. T., Washington, D. C.
 Newell, James M., Boston, Mass.
 Newell, William H., Lewiston, Me.
 Newlin, Gurney E., Los Angeles, Cal.
 Newman, Claire B., Jackson, Tenn.
 Newman, Jacob, Chicago, Ill.
 Newton, Charles E. M., Chicago, Ill.
 Newton, Henry G., New Haven, Conn.
 Niblack, William C., Chicago, Ill.
 Nichols, George L., New York, N. Y.
 Nichols, H. S. P., Philadelphia, Pa.
 Nicoll, De Lancey, New York, N. Y.
 Nicolson, John, New York, N. Y.
 Nields, Benjamin, Wilmington, Del.
 Nields, John P., Wilmington, Del.
 Niezer, Charles M., Fort Wayne, Ind.
 Niles, Alfred S., Baltimore, Md.
 Niles, Henry C., York, Pa.
 Niles, William H., Lynn, Mass.
 Noble, Daniel, Jamaica, N. Y.
 Noble, Herbert, New York, N. Y.
 Noel, James W., Indianapolis, Ind.
 Noffsinger, W. N., Kalispell, Mont.
 Noftzger, Thomas A., Wichita, Kan.
 Nolan, Thomas S., Janesville, Wis.
 Norman, J. V., Louisville, Ky.
 Norris, Herbert M., Ironwood, Mich.
 Norris, James L., Washington, D. C.
 Norris, Mark, Grand Rapids, Mich.
 Norris, Myron A., Youngstown, Ohio.
 Norris, William H., Manchester, Iowa.
 North, Jerome Reynolds, Green Bay, Wis.
 Northcott, Wm. A., Springfield, Ill.
 Northcutt, Jesse G., Trinidad, Col.
 Norton, Algernon S., New York, N. Y.
 Norton, Porter, Buffalo, N. Y.
 Norton, T. J., Chicago, Ill.
 Norton, Albert D., St. Louis, Mo.
 Norwood, C. Augustus, Boston, Mass.
 Norwood, Carlisle, New York, N. Y.
 Nottingham, Edwin, Syracuse, N. Y.
 Nottingham, Wm., Syracuse, N. Y.
 Nourse, Clinton L., Des Moines, Iowa.
 Noxon, John F., Pittsfield, Mass.
 Noyes, Geo. H., Milwaukee, Wis.
 Noyes, George F., Portland, Me.

- Nutter, George R., Boston, Mass.
 Nuzum, Richard W., Spokane, Wash.
 Nye, Carroll A., Moorhead, Minn.
 Oakes, Charles, New York, N. Y.
 O'Brien, Edward D., New York, N. Y.
 O'Brien, James Edward, Minneapolis, Minn.
 O'Brien, Morgan J., New York, N. Y.
 O'Brien, Patrick H., Laurium, Mich.
 O'Brien, Patrick T., Meriden, Conn.
 O'Brien, Thomas J., Grand Rapids, Mich.
 O'Brien, William J., Jr., Baltimore, Md.
 O'Byrne, M. A., Savannah, Ga.
 O'Connell, J. M., Bisbee, Ariz.
 O'Connell, Jeremiah B., Chicago, Ill.
 O'Connell, Joseph F., Boston, Mass.
 O'Connor, Charles J., Chicago, Ill.
 O'Connor, Chas. Leo, Buffalo, N. Y.
 O'Connor, Francis J., Johnstown, Pa.
 O'Connor, Geo. E., Eagle River, Wis.
 O'Connor, James L., Milwaukee, Wis.
 O'Connor, John, Chicago, Ill.
 O'Connor, Keyran J., New York, N. Y.
 O'Connor, Myles Powers, Nashville, Tenn.
 Odlin, Arthur F., Arcadia, Fla.
 Odom, Patrick H., Jacksonville, Fla.
 O'Donnell, James E., Lowell, Mass.
 O'Donnell, James L., Joliet, Ill.
 O'Donnell, Joseph A., Chicago, Ill.
 O'Donnell, Lawrence, New Orleans, La.
 O'Donnell, Thomas J., Denver, Col.
 O'Donnell, Thomas W., Vernal, Utah.
 O'Dunne, Eugene, Baltimore, Md.
 Oeland, Isaac R., Brooklyn, N. Y.
 Offield, Charles K., Chicago, Ill.
 Offutt, Thiemann Scott, Towson, Md.
 Ogden, Howard N., Fairmont, W. Va.
 Ogden, Hugh W., Boston, Mass.
 Ogden, Lewis M., Milwaukee, Wis.
 O'Gorman, James A., New York, N. Y.
 O'Hare, Thos. J., Chicago, Ill.
 O'Hara, Apollon W., Carthage, Ill.
 O'Keefe, P. J., Chicago, Ill.
 Olcott, J. Van Vechten, New York, N. Y.
 Old, William W., Jr., Norfolk, Va.
 Oldham, Robert P., Seattle, Wash.
 Olds, Robt. Edwin, St. Paul, Minn.
 Olin, John M., Madison, Wis.
 Olliphant, Horace K., Bartow, Fla.
 Olmstead, James M., Boston, Mass.
 Olmsted, Marlin E., Harriaburg, Pa.
 Olney, Richard, Boston, Mass.
 Olson, Culbert L., Salt Lake City, Utah.
 O'Meara, C. S., Chicago, Ill.
 O'Neal, Emmett, Montgomery, Ala.
 O'Neill, Grosvenor P., Los Angeles, Cal.
 O'Neill, Harry E., Tuckerville, Neb.
 O'Neill, Charles A., Franklin, La.
 Ong, Eugene W., Boston, Mass.
 Opdyke, Alfred, New York, N. Y.
 Opdyke, William S., New York, N. Y.
 Ordway, Gilbert F., Boston, Mass.
 Oriady, Geo. B., Huntingdon, Pa.
 Orr, Isaac H., St. Louis, Mo.
 Orr, James W., Atchison, Kan.
 Orr, Louis, T., Chicago, Ill.
 Orrick, Allen C., St. Louis, Mo.
 Orton, Philo A., Darlington, Wis.
 Osborn, Edward D., Topeka, Kan.
 Osborne, A. L., Bristol, Tenn.
 Osborne, James W., Ely, Minn.
 Osborne, T. S., Fort Smith, Ark.
 Osenton, C. W., Fayetteville, W. Va.
 Osgood, William N., Boston, Mass.
 O'Shaunessy, George F., Providence, R. I.
 Osmond, William, Great Bend, Kan.
 O'Sullivan, E. A., New Orleans, La.
 O'Sullivan, Wm. J., New York, N. Y.
 Ostrander, Russell C., Lansing, Mich.
 Ottoby, L. Frank, St. Louis, Mo.
 Otta, James C., Spartanburg, S. C.
 Outcalt, Dudley C., Cincinnati, Ohio.
 Overall, John H., St. Louis, Mo.
 Overton, Winston, Lake Charles, La.
 Owens, George W., Savannah, Ga.
 Owens, William A., Lafollette, Tenn.
 Oxtoby, James V., Detroit, Mich.
 Oxtoby, Walter E., Detroit, Mich.
 Oyler, F. J., Iola, Kan.
 Pace, Frank, Little Rock, Ark.
 Pace, Troy, Harrison, Ark.
 Pace, William Heck, Raleigh, N. C.
 Packard, George, Chicago, Ill.
 Paden, Joseph E., Chicago, Ill.
 Padgett, Beale Edward, Everett, Wash.
 Page, Cecil, Chicago, Ill.
 Page, Ernest C., Omaha, Neb.
 Page, George T., Peoria, Ill.
 Page, Howard Wurtz, Philadelphia, Pa.
 Page, Rosewell, Richmond, Va.
 Page, S. Davis, Philadelphia, Pa.
 Page, Thomas Nelson, Washington, D. C.
 Page, William H., New York, N. Y.
 Paige, James, Minneapolis, Minn.
 Paine, Bayard H., Grand Island, Nebr.
 Paine, Karl, Boise, Idaho.
 Palda, L. J., Jr., Minot, N. D.
 Palmer, Henry W., Wilkesbarre, Pa.
 Palmer, Jonathan, Jr., Detroit, Mich.

- Palmer, Truman F., Monticello, Ind.
 Palmer, Walter Curtis, Racine, Wis.
 Pam, Max, Chicago, Ill.
 Parish, Edward C., New York, N. Y.
 Parish, John K., Ashland, Wis.
 Park, Byron B., Stevens Point, Wis.
 Park, Herbert T., Minneapolis, Minn.
 Park, Orville A., Macon, Ga.
 Parker, Alton B., New York, N. Y.
 Parker, Barton L., Green Bay, Wis.
 Parker, Charles W., Jersey City, N. J.
 Parker, Chauncey G., Newark, N. J.
 Parker, Courtlandt, Jr., Newark, N. J.
 Parker, Emmett N., Olympia, Wash.
 Parker, Force, Los Angeles, Cal.
 Parker, Francis H., Hartford, Conn.
 Parker, Francis W., Chicago, Ill.
 Parker, Haywood, Asheville, N. C.
 Parker, Herbert, Boston, Mass.
 Parker, Junius, New York, N. Y.
 Parker, Lewis W., Chicago, Ill.
 Parker, Philip S., Boston, Mass.
 Parker, Balzemon A., Detroit, Mich.
 Parker, Richard Wayne, Newark, N. J.
 Parker, Robert Chapin, Westfield, Mass.
 Parker, Samuel, South Bend, Ind.
 Parker, William C., New Bedford, Mass.
 Parker, Winthrop, New York, N. Y.
 Parker, Woodruff J., Chicago, Ill.
 Parkerson, William Stirling, New Orleans, La.
 Parkhurst, Frederic H., Bangor, Me.
 Parkinson, Robert H., Chicago, Ill.
 Parkinson, Thomas I. (Philadelphia, Pa.), New York, N. Y.
 Parmelee, Henry F., New Haven, Conn.
 Purnly, Randolph, New York, N. Y.
 Parrish, Robert L., Covington, Va.
 Parsons, Charles C., Salt Lake City, Utah.
 Parsons, Chas. F., Hilo, Hawaii.
 Parsons, Edward A., New Orleans, La.
 Parsons, John E., New York, N. Y.
 Partridge, Olcott Osborn, Boston, Mass.
 Pasqua, Benjamin G., New York, N. Y.
 Pattangall, W. R., Waterville, Me.
 Patterson, A. W., Richmond, Va.
 Patterson, Charles E., Seattle, Wash.
 Patterson, Daniel W., New York, N. Y.
 Patterson, Elmer C., Minneapolis, Minn.
 Patterson, George S., Philadelphia, Pa.
 Patterson, John H., Pontiac, Mich.
 Patterson, Lindsay, Winston-Salem, N. C.
 Patterson, Newton Reid, Pineville, Ky.
 Patterson, Roswell H., Scranton, Pa.
 Patterson, T. Elliott, Philadelphia, Pa.
 Patterson, Thomas, Pittsburg, Pa.
 Patten, S. S. P., Richmond, Va.
 Pattison, Allen S., Washington, D. C.
 Pattison, Everett W., St. Louis, Mo.
 Paul, A. C., Minneapolis, Minn.
 Paulding, Charles C., New York, N. Y.
 Paxton, John G., Kansas City, Mo.
 Payne, James M., Charleston, W. Va.
 Payne, Jason E., Vermillion, S. D.
 Payne, John Barton, Chicago, Ill.
 Payne, William D., Charleston, W. Va.
 Payson, Edward P., Boston, Mass.
 Payson, Franklin C., Portland, Me.
 Peabody, Augustus S., Chicago, Ill.
 Peabody, Clarence W., Portland, Me.
 Peabody, Francis, Boston, Mass.
 Peaks, George H., Chicago, Ill.
 Pearce, James A., Chestertown, Md.
 Pearce, Stanley D., St. Louis, Mo.
 Pearl, Francis H., Haverhill, Mass.
 Pearsons, Harry P., Chicago, Ill.
 Pease, Frank Alvin, Fall River, Mass.
 Peasley, Fred M., Cheshire, Conn.
 Peck, Epaphroditus, Bristol, Conn.
 Peck, George R., Chicago, Ill.
 Peck, Hiram D., Cincinnati, Ohio.
 Peck, Ralph L., Chicago, Ill.
 Peden, Thos. J., Chicago, Ill.
 Pedigo, John H., Walla Walla, Wash.
 Pednik, Samuel M., Ripon, Wis.
 Peek, Burton F., Moline, Ill.
 Pegram, Henry, New York, N. Y.
 Pelham, John, Montgomery, Ala.
 Pelletier, Joseph C., Boston, Mass.
 Pelot, Chas. E., Jacksonville, Fla.
 Pelton, Charles A., Clinton, Conn.
 Pemberton, William Y., Helena, Mont.
 Pence, Joseph T., Boise, Ida.
 Pendleton, Francis Key, New York, N. Y.
 Penfield, Walter S., Washington, D. C.
 Penney, R. L., Minneapolis, Minn.
 Pennypacker, Bevan Aubrey, Germantown, Pa.
 Pennypacker, Samuel W., Schwenksville, Pa.
 Penwell, Fred B., Danville, Ill.
 Pepper, B. Franklin, Philadelphia, Pa.
 Pepper, George Wharton, Philadelphia, Pa.
 Percy, LeRoy, Greenville, Miss.
 Percy, Walker, Birmingham, Ala.
 Pereles, Nathan, Jr., Milwaukee, Wis.
 Pereles, Thomas Jefferson, Milwaukee, Wis.

- Perkins, Arthur, Hartford, Conn.
 Perkins, David Walter, Manchester, N. H.
 Perkins, Edward C., Boston, Mass.
 Perkins, Thomas N., Boston, Mass.
 Perky, Kirtland I., Boise, Ida.
 Perry, Charles Bennett, Milwaukee, Wis.
 Perry, Ernest Bert, Cambridge, Neb.
 Perry, Fred L., New Haven, Conn.
 Perry, R. Ross, Jr., Washington, D. C.
 Perry, Stephen C., Portland, Me.
 Peter, James B., Saginaw, Mich.
 Peters, Arthur John, New Orleans, La.
 Peters, James W. S., Kansas City, Mo.
 Peters, John A., Ellsworth, Me.
 Peters, W. A., Seattle, Wash.
 Peterson, Fred. H., Seattle, Wash.
 Peterson, James A., Chicago, Ill.
 Pette, Alfred C., New York, N. Y.
 Pettingill, N. B. K., San Juan, P. R.
 Pettit, C. E., Stuttgart, Ark.
 Pettit, Horace, Philadelphia, Pa.
 Petty, Robert D., New York, N. Y.
 Pevey, Gilbert A. A., Boston, Mass.
 Peyton, Frank M., Jackson, Miss.
 Pfau, Abraham J., Chicago, Ill.
 Phelan, Patrick Henry, Jr., Memphis, Tenn.
 Phelps, Charles, Rockville, Conn.
 Phelps, H. H., Duluth, Minn.
 Philbrook, Warren C., Waterville, Me.
 Philipp, Moritz Bernard, New York, N. Y.
 Phillips, Benjamin, Boston, Mass.
 Phillips, Henry B., Jacksonville, Fla.
 Phillips, John F., Kansas City, Mo.
 Phillips, Alfred Ingersoll, Philadelphia, Pa.
 Phillips, Arthur S., Fall River, Mass.
 Phillips, Lewis S., New York, N. Y.
 Phillips, Nelson, Dallas, Tex.
 Phipps, Geo. V., Boston, Mass.
 Piatt, Wm. H. H., Kansas City, Mo.
 Pickens, Samuel O., Indianapolis, Ind.
 Pickens, William A., Indianapolis, Ind.
 Pickering, Henry Goddard, Boston, Mass.
 Pickman, John J., Lowell, Mass.
 Pickrell, John, Richmond, Va.
 Pierce, Charles L., Rochester, N. Y.
 Pierce, Thomas M., St. Louis, Mo.
 Pierce, Wilson H., Waterbury, Conn.
 Pierce, Winslow S., New York, N. Y.
 Pierson, Geo. W., Billings, Mont.
 Pike, Vinton, St. Joseph, Mo.
 Pilcher, James Stuart, Nashville, Tenn.
 Piles, Samuel H., Seattle, Wash.
 Pillsbury, Albert E., Boston, Mass.
 Pinckney, Merritt W., Chicago, Ill.
 Pingrey, Darius H., Bloomington, Ill.
 Pinkerton, Alfred S., Worcester, Mass.
 Pirce, James Aldrich, Providence, R. I.
 Pirtle, James S., Louisville, Ky.
 Pitney, John O. H., Newark, N. J.
 Pitts, John A., Nashville, Tenn.
 Place, Ira A., New York, N. Y.
 Plain, Frank G., Aurora, Ill.
 Platt, Frank H., New York, N. Y.
 Platt, Robert Treat, Portland, Ore.
 Playford, R. W., Uniontown, Pa.
 Poediger, George A., Pittsfield, Mass.
 Poindexter, Miles, Spokane, Wash.
 Polk, Charles M., St. Louis, Mo.
 Pollack, Sidney S., Chicago, Ill.
 Pollak, Francis D., New York, N. Y.
 Pollard, Claude, Kingsville, Tex.
 Pollard, Henry R., Richmond, Va.
 Pollock, John C., Kansas City, Kan.
 Pollock, Robert M., Fargo, N. D.
 Pomerene, Atlee, Canton, Ohio.
 Pomeroy, Charles W., Kailapell, Mont.
 Pond, Philip, New Haven, Conn.
 Poor, John R., Brookline, Mass.
 Pope, Gustavus G., Texarkana, Ark.
 Pope, William H., Santa Fe, N. M.
 Poppenhusen, Conrad H., Chicago, Ill.
 Porter, Frank M., Los Angeles, Cal.
 Porter, Louis H., New York, N. Y.
 Porter, Silas, Topeka, Kan.
 Porter, Valentine Mott, Santa Barbara, Cal.
 Porter, William D., Pittsburg, Pa.
 Porter, William Gove, Aberdeen, S. D.
 Posner, Louis S., New York, N. Y.
 Poes, Benjamin, Milwaukee, Wis.
 Post, Frank T., Spokane, Wash.
 Post, Philip S., Chicago, Ill.
 Potter, Barrett, Brunswick, Me.
 Potter, C. C., Gainesville, Tex.
 Potter, Charles N., Cheyenne, Wyo.
 Potter, Dexter B., Providence, R. I.
 Potter, Emery D., Toledo, Ohio.
 Potter, Frederick, New York, N. Y.
 Potter, Wm. P., Swarthmore, Pa.
 Potts, C. H., Coeur d'Alene, Idaho.
 Potts, Joseph, New York, N. Y.
 Pou, James H., Raleigh, N. C.
 Pound, Cuthbert W., Lockport, N. Y.
 Pound, Roscoe, Cambridge, Mass.
 Powell, Chas. L., Chicago, Ill.
 Powell, Elmer N., Kansas City, Mo.
 Powell, George M., Johnson City, Tenn.

- Powell, John H., Seattle, Wash.
 Powell, J. Norment, Johnson City, Tenn.
 Powell, L. K., Mt. Gilead, Ohio.
 Powell, Omar, New York, N. Y.
 Powell, Ransom J., Minneapolis, Minn.
 Powell, Walter A., Kansas City, Mo.
 Powell, William H., Canton, Miss.
 Powers, Frederick A., Houlton, Me.
 Powers, O. W., Salt Lake City, Utah.
 Powers, Samuel L., Boston, Mass.
 Pratt, Charles A. B., New York, N. Y.
 Pratt, James R., Baltimore, Md.
 Pray, Charles N., Fort Benton, Mont.
 Prendergast, Edmund A., Minneapolis, Minn.
 Prentice, E. Parmalee, New York, N. Y.
 Prentice, William P., New York, N. Y.
 Prentiss, Robert R., Suffolk, Va.
 Preston, Edmund R., Charlotte, N. C.
 Preston, Harold, Seattle, Wash.
 Preston, J. W., Pueblo, Col.
 Prewitt, Henry R., Mt. Sterling, Ky.
 Price, Frank F., Grand Rapids, Minn.
 Price, George E., Charleston, W. Va.
 Price, William H., Marianna, Fla.
 Prichard, Frank P., Philadelphia, Pa.
 Pride, James H., Huntsville, Ala.
 Prime, Ralph E., Yonkers, N. Y.
 Prince, Leon C., Carlisle, Pa.
 Prince, Sydney Rhodes, Mobile, Ala.
 Prindville, Thos. W., Chicago, Ill.
 Prindville, John K., Chicago, Ill.
 Prindle, Edwin J., New York, N. Y.
 Pringle, Edward G., New York, N. Y.
 Proctor, Frederick C., Beaumont, Texas.
 Proctor, H. P., Viroqua, Wis.
 Proctor, Thomas W., Boston, Mass.
 Proskauer, Joseph M., New York, N. Y.
 Prouditt, Robert M., Friend, Neb.
 Prouty, Charles A. (Washington, D. C.), Newport, Vt.
 Pruden, William D., Edenton, N. C.
 Prussing, Eugene E., Chicago, Ill.
 Pugh, James Thomas, Boston, Mass.
 Pugh, Robert C., Cincinnati, Ohio.
 Pujo, Arsene P., Lake Charles, La.
 Pulsifer, Geo. Royal, Boston, Mass.
 Pulsifer, Park B., Concordia, Kan.
 Purcell, Wm. E., Wahpeton, N. D.
 Purdy, Lawson, New York, N. Y.
 Purnell, Clayton, Frostburg, Md.
 Purrington, William Archer, New York, N. Y.
 Putnam, Harrington, Brooklyn, N. Y.
 Putnam, James L., Boston, Mass.
 Putnam, William L., Boston, Mass.
 Pyle, Emery Clinton, Cincinnati, Ohio.
 Quackenbush, James L., New York, N. Y.
 Quail, Frank A., Cleveland, Ohio.
 Quarles, James, Louisville, Ky.
 Quarles, Wm. C., Milwaukee, Wis.
 Quattlebaum, Julius W., Anderson, S. C.
 Quinby, William, Boston, Mass.
 Quincy, Josiah H., Boston, Mass.
 Quinn, Frank S., Texarkana, Ark.
 Quinn, John, New York, N. Y.
 Quintero, Lamar C., New Orleans, La.
 Qvale, G. E., Willmar, Minn.
 Rackemann, Charles Sedgwick, Boston, Mass.
 Rackemann, Felix, Boston, Mass.
 Radcliffe, Samuel, Larimore, N. D.
 Rafferty, William F., Syracuse, N. Y.
 Rainey, L. B., Gadsden, Ala.
 Rainold, Frank E., New Orleans, La.
 Ralls, Joseph G., Atoka, Okla.
 Ralston, Jackson H., Washington, D. C.
 Ralston, Robert, Philadelphia, Pa.
 Ramsey, George S., Muskogee, Okla.
 Ramsey, H. J., Seattle, Wash.
 Rand, William, Jr., New York, N. Y.
 Randall, Henry E., St. Paul, Minn.
 Randolph, Edward H., Shreveport, La.
 Randolph, Hollins N., Atlanta, Ga.
 Randolph, Stuart F., New York, N. Y.
 Rankin, Charles W., Soochow, China.
 Ranney, Fletcher, Boston, Mass.
 Ranney, Henry C., Cleveland, Ohio.
 Raper, Emery E., Lexington, N. C.
 Rasmieur, Theodore, St. Louis, Mo.
 Ratcliffe, Cummins, Little Rock, Ark.
 Ratcliffe, William C., Little Rock, Ark.
 Rawle, Francis, Philadelphia, Pa.
 Ray, Charles T., Louisville, Ky.
 Raymond, John Marshall, Salem, Mass.
 Raymond, Robert F., Boston, Mass.
 Rea, S. C., Luverne, Minn.
 Read, Charles C., Boston, Mass.
 Read, Cloyd H., Dallas, Texas.
 Read, James F., Fort Smith, Ark.
 Read, William L., Des Moines, Iowa.
 Read, William T., New York, N. Y.
 Ready, James H., Oklahoma City, Okla.
 Reardon, John J., Williamsport, Pa.
 Reasoner, James M., Lansing, Mich.
 Rector, Edward, Chicago, Ill.
 Rector, Elias W., Hot Springs, Ark.
 Rector, Wm. H., Fort Smith, Ark.
 Reddin, John H., Denver, Col.
 Redding, Joseph D., New York, N. Y.

- Redding, William A., New York, N. Y.
 Redfield, Henry S., New York, N. Y.
 Reed, Albert A., Boulder, Col.
 Reed, Carl W., Cresco, Iowa.
 Reed, David Aiken, Pittsburg, Pa.
 Reed, Frank F., Chicago, Ill.
 Reed, H. T., Cresco, Iowa.
 Reed, James H., Pittsburg, Pa.
 Reed, John P., Chicago, Ill.
 Reed, William L., Chicago, Ill.
 Reed, William M., Paducah, Ky.
 Rees, Allen F., Houghton, Mich.
 Reeves, Alfred G., New York, N. Y.
 Reeves, Herbert, New York, N. Y.
 Regennitter, Erwin L., Idaho Springs, Col.
 Rehm, William C., Lancaster, Pa.
 Reid, A. H., Wausau, Wis.
 Reid, Ambrose B., Pittsburg, Pa.
 Reid, George T., Tacoma, Wash.
 Reid, William O., Roswell, N. M.
 Redlly, John F., Hammond, Ind.
 Reilly, Paul, Philadelphia, Pa.
 Remick, James W., Concord, N. H.
 Renchan, A. B., Santa Fe, N. M.
 Reynolds, Allen H., Walla Walla, Wash.
 Reynolds, Asa Q., Chicago, Ill.
 Reynolds, George D., St. Louis, Mo.
 Reynolds, George Vogdes, St. Louis, Mo.
 Reynolds, John Chandler, Jacksonville, Fla.
 Reynolds, John J., Boston, Mass.
 Reynolds, Thomas H., Kansas City, Mo.
 Rice, Herbert A., Providence, R. I.
 Rice, Chas. E., Wilkes-Barre, Pa.
 Rice, John O., Boston, Mass.
 Rice, J. Kearney, New Brunswick, N. J.
 Rice, Leon L., Anderson, S. C.
 Rice, William E., Warren, Pa.
 Rice, William G., Deadwood, S. D.
 Rich, Burdett A., Rochester, N. Y.
 Rich, Edson, Omaha, Neb.
 Rich, Edward N., Baltimore, Md.
 Rich, George F., Berlin, N. H.
 Rich, William G., Woonsocket, R. I.
 Richards, Albin L., Boston, Mass.
 Richards, Elmer E., Farmington, Me.
 Richards, H. C., Wheeling, W. Va.
 Richards, Harry S., Madison, Wis.
 Richards, James H., Boise, Ida.
 Richards, John T., Chicago, Ill.
 Richards, Robert H., Wilmington, Del.
 Richardson, E. Stanley, Philadelphia, Pa.
 Richardson, Harris, St. Paul, Minn.
 Richardson, Henry T., Boston, Mass.
 Richardson, W. K., Boston, Mass.
 Richberg, Donald R., Chicago, Ill.
 Richberg, John C., Chicago, Ill.
 Richmann, Alex. F., Chicago, Ill.
 Richmond, Benjamin A., Cumberland, Md.
 Richmond, T. C., Madison, Wis.
 Riddick, W. G., Little Rock, Ark.
 Riddleberger, Ralph H., Norfolk, Va.
 Rider, George C., Pekin, Ill.
 Ridgely, Henry, Dover, Del.
 Rightmire, George W., Columbus, Ohio.
 Riker, Adrian, Newark, N. J.
 Riker, Samuel, Jr., New York, N. Y.
 Rinaker, John I., Carlisle, Ill.
 Rinaker, Samuel, Beatrice, Neb.
 Rine, John A., Omaha, Neb.
 Rinehart, C. D., Jacksonville, Fla.
 Rinehart, Wm. V., Jr., Seattle, Wash.
 Ritchie, Albert C., Baltimore, Md.
 Ritchie, William, Chicago, Ill.
 Rittenhouse, George B., Chandler, Okla.
 Ritter, Fred. W., Jr., Washington, D. C.
 Ritz, Harold A., Bluefield, W. Va.
 Rix, Carl B., Milwaukee, Wis.
 Robb, Bamford A., Seattle, Wash.
 Robb, Charles H. (Washington, D. C.), Bellows Falls, Vt.
 Robbins, Alexander H., St. Louis, Mo.
 Robbins, Charles A., Lincoln, Neb.
 Robbins, Edward D., New Haven, Conn.
 Robbins, George M., Titusville, Fla.
 Robbins, Henry S., Chicago, Ill.
 Robbins, Josephus Ewing, Mayfield, Ky.
 Robert, Douglas W., St. Louis, Mo.
 Roberts, C. Wilson, Philadelphia, Pa.
 Roberts, D. E., Superior, Wis.
 Roberts, George L., Boston, Mass.
 Roberts, Harlan P., Minneapolis, Minn.
 Roberts, John W., Seattle, Wash.
 Roberts, Jos. Banks, New York, N. Y.
 Roberts, Owen J., Philadelphia, Pa.
 Roberts, William J., Keokuk, Iowa.
 Roberts, William P., Minneapolis, Minn.
 Robertson, C. D., Cincinnati, Ohio.
 Robertson, Charles R., Detroit, Mich.
 Robertson, George, Mexico, Mo.
 Robertson, James, Minneapolis, Minn.
 Robertson, V. Otis, Jackson, Miss.
 Robeson, Andrew O., Greenville, Ohio.
 Robinson, David W., Columbia, S. C.
 Robinson, Harold L., Uniontown, Pa.
 Robinson, Ira E., Charleston, W. Va.
 Robinson, Jed W., Grafton, W. Va.

- Robinson, Jos. T., Lonoke, Ark.
 Robinson, Nathaniel S., Milwaukee, Wis.
 Robinson, Thomas H., Bel Air, Md.
 Robinson, V. Glipin, Philadelphia, Pa.
 Robson, Frank E., Detroit, Mich.
 Robson, Stuart M., Springfield, Mass.
 Roby, Frank S., Indianapolis, Ind.
 Rockafellow, J. B., Atlantic, Iowa.
 Rockhold, Frank A., Chicago, Ill.
 Rockwood, Chelsea J., Minneapolis, Minn.
 Rockwood, Nash, Saratoga Springs, N. Y.
 Rode, Walter E., Oakland, Cal.
 Rodenbeck, Adolph J., Rochester, N. Y.
 Rodgers, Rollin W., Texarkana, Texas.
 Rodgers, W. C., Nashville, Ark.
 Rodgers, William B., Butte, Mont.
 Rodman, William Blount, Norfolk, Va.
 Rodriguez-Serra, Manuel, San Juan, P. R.
 Roe, Gilbert E., New York, N. Y.
 Roe, William, Wolcott, N. Y.
 Rogers, Edward H., New Haven, Conn.
 Rogers, Edward S., Chicago, Ill.
 Rogers, Foster, Boston, Mass.
 Rogers, George Lyman, Boston, Mass.
 Rogers, George Mills, Chicago, Ill.
 Rogers, Henry T., Denver, Col.
 Rogers, Henry Wade, New Haven, Conn.
 Rogers, Hubert E., New York, N. Y.
 Rogers, James S., Philadelphia, Pa.
 Rogers, L. Harding, Jr., New York, N. Y.
 Rogers, Noah Cornwell, New York, N. Y.
 Rogers, Platt, Denver, Col.
 Rogers, Robert Lee, Little Rock, Ark.
 Rogers, Walter F., Washington, D. C.
 Rogers, William P., Cincinnati, Ohio.
 Rollins, Thomas Scott, Asheville, N. C.
 Romain, Armand, New Orleans, La.
 Rombauer, Edgar R., St. Louis, Mo.
 Rombauer, Roderick E., St. Louis, Mo.
 Ronald, J. T., Seattle, Wash.
 Ronan, Edward D., Albany, N. Y.
 Rood, John R., Ann Arbor, Mich.
 Rooney, John Jerome, New York, N. Y.
 Rooney, Thos. Edw., Chicago, Ill.
 Root, Elihu (Washington, D. C.), New York, N. Y.
 Root, Jesse Bryan, Butte, Mont.
 Rose, A. J., Greenville, Miss.
 Rose, George B., Little Rock, Ark.
 Rose, John C., Baltimore, Md.
 Rose, U. M., Little Rock, Ark.
 Rosen, Charles, New Orleans, La.
 Rosenbaum, M. I., Chicago, Ill.
 Rosenberg, James N., New York, N. Y.
 Rosenberg, Louis J., Detroit, Mich.
 Rosenberry, Marvin B., Wausau, Wis.
 Rosendale, Simon W., Albany, N. Y.
 Rosenthal, James, Chicago, Ill.
 Rosenthal, Lessing, Chicago, Ill.
 Ross, David, Kallispell, Mont.
 Ross, Geo. Ewing, Logansport, Ind.
 Ross, Guy W. C., Duluth, Minn.
 Ross, John Mason, Bisbee, Arizona.
 Ross, Walter W., Chicago, Ill.
 Rosser, J. B., Jr., New Orleans, La.
 Rothmann, William, Chicago, Ill.
 Rounds, Arthur C., New York, N. Y.
 Rounds, Ralph S., New York, N. Y.
 Rountree, George, Wilmington, N. C.
 Rouse, John T., Cincinnati, Ohio.
 Rouse, Shelley D., Covington, Ky.
 Rowe, Leo Stanton, Philadelphia, Pa.
 Rowe, William V., Brooklyn, N. Y.
 Rowell, Alex. H., Pine Bluff, Ark.
 Rowland, Arthur, Yonkers, N. Y.
 Rowland, Lloyd A., Bartlesville, Okla.
 Rowlette, Thomas M., New York, N. Y.
 Rozzelle, Frank F., Kansas City, Mo.
 Rubens, Harry, Chicago, Ill.
 Rubenstein, Philip, Boston, Mass.
 Rubino, Henry A., New York, N. Y.
 Rudd, William Platt, Albany, N. Y.
 Rudolph, Z. T., Birmingham, Ala.
 Rugg, Arthur P., Worcester, Mass.
 Ruggles, Daniel B., Boston, Mass.
 Ruhl, Christian H., Reading, Pa.
 Ruick, Norman M., Boise, Ida.
 Rule, Duncan, Mason City, Iowa.
 Rummler, William R., Chicago, Ill.
 Runk, Louis Barcroft, Philadelphia, Pa.
 Runke, Richard B., Merrill, Wis.
 Runnells, John S., Chicago, Ill.
 Rupe, John L., Richmond, Ind.
 Rupp, Otto B., Seattle, Wash.
 Ruah, Sylvester R., Omaha, Neb.
 Ruah, Thomas E., New York, N. Y.
 Ruahton, Ray, Montgomery, Ala.
 Russell, Charles A., Gloucester, Mass.
 Russell, Chas. Howland, New York City.
 Russell, Henry, Detroit, Mich.
 Russell, Isaac F., New York, N. Y.
 Russell, J. Porter, Boston, Mass.
 Russell, S. H., Ardmore, Okla.
 Russell, Talcott H., New Haven, Conn.
 Rutherford, John, Richmond, Va.
 Ryall, Arthur H., Escanaba, Mich.
 Ryan, Andrew J., Chicago, Ill.
 Ryan, Charles G., Grand Island, Neb.
 Ryan, O'Neill, St. Louis, Mo.
 Ryden, Otto G., Chicago, Ill.

- Ryder, Erastus C., Bangor, Me.
 Ryer, Julian C., Chicago, Ill.
 Ryon, Oscar B., Streator, Ill.
 Ryon, William W., Shamokin, Pa.
 Sabath, Joseph, Chicago, Ill.
 Sabin, Fred A., La Junta, Col.
 Sabin, Leland H., Battle Creek, Mich.
 Sabine, William, Boston, Mass.
 Sackett, Henry W., New York, N. Y.
 Sage, Dean, New York, N. Y.
 St. John, Charles J., Bristol, Tenn.
 St. Paul, John, New Orleans, La.
 Sain, David B., Nashville, Ark.
 Salisbury, Elias D., Indianapolis, Ind.
 Saltonstall, Richard M., Boston, Mass.
 Saltzgaber, Gaylord M., Van Wert, Ohio.
 Sampliner, Jos. H., Cleveland, Ohio.
 Samuels, Sidney L., Fort Worth, Tex.
 Sanborn, A. L., Madison, Wis.
 Sanborn, Edward P., St. Paul, Minn.
 Sanborn, Frederick H., New York, N. Y.
 Sanborn, John Bell, Madison, Wis.
 Sanborn, Walter H., St. Paul, Minn.
 Sanders, Henry Williams, Louisville, Ky.
 Sanders, J. O. S., Jackson, Miss.
 Sanders, Joseph M., Bluefield, W. Va.
 Sanders, W. B., Cleveland, Ohio.
 Sanderson, Thos. A., Sturgeon Bay, Wis.
 Saner, John C., Dallas, Texas.
 Saner, Robert E. Lee, Dallas, Tex.
 Sanford, Allan D., Waco, Tex.
 Sanford, Charles M., Smithtown Branch,
 N. Y.
 Sanford, Edward T., Knoxville, Tenn.
 Sanford, Ferdinand V., Warwick, N. Y.
 Sansom, Richard H., Knoxville, Tenn.
 Sapp, Edward E., Salina, Kan.
 Sappington, Augustine DeR., Baltimore,
 Md.
 Sappington, G. Ridgely, Baltimore, Md.
 Sargent, John G., Ludlow, Vt.
 Sarpy, Henry L., New Orleans, La.
 Saulesbury, Willard, Wilmington, Del.
 Saunders, Charles G., Boston, Mass.
 Saunders, Eugene D., New Orleans, La.
 Saunders, Walter H., St. Louis, Mo.
 Sauter, L. E., Chicago, Ill.
 Savage, Albert R., Auburn, Me.
 Savage, Michael, Clarksville, Tenn.
 Savery, C. D., Tacoma, Wash.
 Saville, Huntington, Boston, Mass.
 Sawtell, Frank M., Boston, Mass.
 Sawyer, Alfred P., Lowell, Mass.
 Sawyer, Clarence E., Portland, Me.
 Sawyer, Cleon J., New York, N. Y.
 Sawyer, Hazen I., Keokuk, Iowa.
 Saxe, John W., Boston, Mass.
 Saxon, Lyle, New Orleans, La.
 Sayler, John Riner, Cincinnati, Ohio.
 Sayler, Samuel M., Huntington, Ind.
 Scaife, Hazel L., Clinton, S. C.
 Scaife, Lauriston L., Boston, Mass.
 Scallion, William, New York, N. Y.
 Scandrett, Henry A., Topeka, Kan.
 Scanlan, Chas. M., Milwaukee, Wis.
 Schaap, Michael, New York, N. Y.
 Schaffer, William I., Chester, Pa.
 Schaffner, Arthur B., Chicago, Ill.
 Schaffner, Walter, Seattle, Wash.
 Schaich, John G., Kansas City, Mo.
 Scharps, Albert T., New York, N. Y.
 Scheiber, Frederick, Milwaukee, Wis.
 Scherr, Harry, Williamson, W. Va.
 Schindel, John Randolph, Cincinnati,
 Ohio.
 Schlesinger, Elmer, Chicago, Ill.
 Schmidt, Philip C., Duluth, Minn.
 Schnabel, Charles J., Portland, Ore.
 Schnurmacher, Benjamin, St. Louis, Mo.
 Schoellkopf, Henry, Milwaukee, Wis.
 Schofield, F. L., Hannibal, Mo.
 Schofield, Henry, Chicago, Ill.
 Schofield, William, Malden, Mass.
 Schoonover, Albert, San Diego, Cal.
 Schouler, James, Intervale, N. H.
 Schubring, E. J. B., Madison, Wis.
 Schultz, John H., Denver, Colo.
 Schurman, Geo. W., New York, N. Y.
 Schurz, Carl L., New York, N. Y.
 Schwartz, Sydney A., Titusville, Pa.
 Schwarz, Ralph J., New Orleans, La.
 Scott, Alexander Y., Memphis, Tenn.
 Scott, Charles, Rosedale, Miss.
 Scott, Edgar H., Omaha, Neb.
 Scott, Frank H., Chicago, Ill.
 Scott, Henry W., New York, N. Y.
 Scott, Howard B., Danbury, Conn.
 Scott, James Brown (Washington, D. C.),
 Champaign, Ill.
 Scott, John, Jr., Philadelphia, Pa.
 Scott, Joseph, Los Angeles, Cal.
 Scott, Samuel Parsons, Hillsboro, Ohio.
 Scovell, J. Boardman, Niagara Falls,
 N. Y.
 Scoville, Samuel, Jr., Philadelphia, Pa.
 Scully, Edward T., Pittsfield, Mass.
 Seabrook, Paul E. (Savannah, Ga.),
 Pineora, Ga.
 Seabury, William M., New York, N. Y.
 Seager, Frank E., Fremont, Ohio.
 Seaman, William H., Sheboygan, Wis.

Searcy, William W., Brenham, Tex.
 Searis, Charles E., Putnam, Conn.
 Sears, Chas. B., Buffalo, N. Y.
 Sears, George B., Salem, Mass.
 Sears, Hector, Gardiner, N. Y.
 Sears, Nathaniel C., Chicago, Ill.
 Sears, Wm. B., Boston, Mass.
 Seaton, Emmett, Richmond, Va.
 Seay, Edward T., Gallatin, Texas.
 Seawell, Herbert F., Carthage, N. C.
 Sedgwick, Samuel H., Lincoln, Neb.
 See, Cornelius S., Chicago, Ill.
 Seevera, George W., Minneapolis, Minn.
 Seibert, William N., New Bloomfield, Pa.
 Selden, John, Washington, D. C.
 Selheimer, Henry C., Birmingham, Ala.
 Sellers, Emory B., Monticello, Ind.
 Selligman, Alfred, Louisville, Ky.
 Selling, Bernard B., Detroit, Mich.
 Selover, George H., Minneapolis, Minn.
 Semple, Edward M., Key West, Fla.
 Semple, Oliver C., New York, N. Y.
 Senef, E. H., Chicago, Ill.
 Senior, Edwin W., Salt Lake City, Utah.
 Senior, John L., Tulsa, Okla.
 Senn, G. Wm., St. Louis, Mo.
 Settle, Warner Ellmore, Bowling Green, Ky.
 Severance, Cordenio A., St. Paul, Minn.
 Sewall, Harold M., Bath, Me.
 Sexton, James S., Hazlehurst, Miss.
 Sexton, Lawrence E., New York, N. Y.
 Sexton, Pliny T., Palmyra, N. Y.
 Seymour, Henry A., Washington, D. C.
 Seymour, Henry H., Buffalo, N. Y.
 Seymour, Morris W., Bridgeport, Conn.
 Seymour, Origen Storrs, New York, N. Y.
 Seymour, Warren I., Pittsburg, Pa.
 Shabad, Henry M., Chicago, Ill.
 Shackford, Samuel B., Boston, Mass.
 Shackelford, John A., Tacoma, Wash.
 Shackelford, T. M., Jr., Tampa, Fla.
 Shaffer, C. Will, Olympia, Wash.
 Shafroth, John F., Denver, Col.
 Shands, A. W., Sardis, Miss.
 Shapira, Samuel S., Pittsburgh, Pa.
 Sharpstein, John L., Walla Walla, Wash.
 Shattuck, A. C., Cincinnati, Ohio.
 Shattuck, Charles E., Boston, Mass.
 Shattuck, Frank R., Philadelphia, Pa.
 Shattuck, Henry Lee, Boston, Mass.
 Shaw, Frank W., Minneapolis, Minn.
 Shaw, George E., Pittsburg, Pa.
 Shaw, Harry, Fairmont, W. Va.
 Shea, William F., Ashland, Wis.

Shear, B. D., Oklahoma City, Okla.
 Shearer, James D., Minneapolis, Minn.
 Shearn, Clarence J., New York, N. Y.
 Shecan, David, Galena, Ill.
 Sheean, James B., St. Paul, Minn.
 Sheean, James M., Chicago, Ill.
 Sheehan, Jos. A., Boston, Mass.
 Sheehan, William F., New York, N. Y.
 Sheffield, Wm. P., Newport, R. I.
 Shelby, David D., Huntsville, Ala.
 Shelby, John T., Lexington, Ky.
 Sheldon, Edward W., New York, N. Y.
 Sheldon, Henry N., Boston, Mass.
 Shelton, George F., Butte, Mont.
 Shelton, H. H., Bristol, Tenn.
 Shelton, Thomas Wall, Norfolk, Va.
 Shenstone, Archibald C., New York, N. Y.
 Shepard, Charles E., Seattle, Wash.
 Shepard, Frank L., Chicago, Ill.
 Shepard, Harvey N., Boston, Mass.
 Shepard, Stuart G., Chicago, Ill.
 Shepley, Arthur B., St. Louis, Mo.
 Sheppard, Wm. B., Pensacola, Fla.
 Sheridan, Harry C., Frankfort, Ind.
 Sheridan, Michael S., Milwaukee, Wis.
 Sheriff, Andrew E., Chicago, Ill.
 Sherley, Swagar, Washington, D. C.
 Sherman, Chas. P., New Haven, Conn.
 Sherman, Gordon E., Morristown, N. J.
 Sherman, P. Tecumseh, New York, N. Y.
 Sherman, Roland H., Boston, Mass.
 Sherman, Sterling S., Montrose, Col.
 Sherrill, Charles Hitchcock, New York, N. Y.
 Sherwin, John C., Mason City, Iowa.
 Sherwood, Carl G., Clark, S. D.
 Shick, Robert P., Philadelphia, Pa.
 Shields, George H., St. Louis, Mo.
 Shields, James M., Pittsburg, Pa.
 Shipman, Andrew J., New York, N. Y.
 Shipman, George M., Belvidere, N. J.
 Shiras, George Jr. (Washington, D. C.), Pittsburg, Pa.
 Shiras, Oliver P., Dubuque, Iowa.
 Shire, Moses, Buffalo, N. Y.
 Shoemaker, Herbert Brodish, New York, N. Y.
 Shoyer, Frederick J., Philadelphia, Pa.
 Shrewsbury, Geo. H., Charleston, W. Va.
 Shull, Deloss C., Sioux City, Iowa.
 Shulman, Max, Chicago, Ill.
 Sickelsteel, David I., Stevens Point, Wis.
 Siddons, Frederick Lincoln, Washington, D. C.

- Sidley, William P., Chicago, Ill.
 Silber, Clarence J., Chicago, Ill.
 Silber, Frederick D., Chicago, Ill.
 Silverman, Samuel S., Boston, Mass.
 Silwold, Henry, Newton, Iowa.
 Simkins, Daniel W., Philadelphia, Pa.
 Simmerman, R. E. Lee, Hartford, Ky.
 Simmons, Geo. D., Hicksville, Ohio.
 Simmons, J. S., Hutchinson, Kan.
 Simmons, Robert C., Covington, Ky.
 Simmons, Rufus S., Chicago, Ill.
 Simms, Charles Carroll, Barnwell, S. C.
 Simms, Dan W., Lafayette, Ind.
 Simms, John F., Texarkana, Ark.
 Simms, John T., Fayetteville, W. Va.
 Simonson, Theodore, Newton, N. J.
 Simonton, F. M., Tampa, Fla.
 Simpson, Alexander, Jr., Philadelphia, Pa.
 Simpson, David F., Minneapolis, Minn.
 Simpson, Frank Leslie, Boston, Mass.
 Sims, Edwin W., Chicago, Ill.
 Sims, Henry Upson, Birmingham, Ala.
 Sims, James Caswell, Bowling Green, Ky.
 Shriner, William G., Greenville, S. C.
 Sisk, James H., Lynn, Mass.
 Sitterly, Jere S., Fonda, N. Y.
 Sivley, Clarence L., Chicago, Ill.
 Skelton, William B., Lewiston, Me.
 Skinner, Alfred F., Newark, N. J.
 Skinner, Harry, Greenville, N. C.
 Skulason, B. G., Grand Forks, N. D.
 Slade, John A., Saratoga Springs, N. Y.
 Slater, John S., Boston, Mass.
 Slingluff, R. Lee, Baltimore, Md.
 Slocum, Edward T., Pittsfield, Mass.
 Slocum, Winfield S., Boston, Mass.
 Sloman, Adolph, Detroit, Mich.
 Slonecker, J. G., Topeka, Kan.
 Small, Charles E., Kansas City, Mo.
 Smart, John Harrow, Cleveland, Ohio.
 Smead, Alexander D. B., Carlisle, Pa.
 Smedes, John Marshall, Cincinnati, Ohio.
 Smiley, James J., Cincinnati, Ohio.
 Smith, A. G., Birmingham, Ala.
 Smith, A. Page, Albany, N. Y.
 Smith, Alex. W., Sr., Atlanta, Ga.
 Smith, Alfred Percival, Philadelphia, Pa.
 Smith, Arthur Thad, Boston, Mass.
 Smith, Bertram L., Patten, Me.
 Smith, Burton, Atlanta, Ga.
 Smith, Chas. B., Cincinnati, Ohio.
 Smith, Charles Blood, Topeka, Kan.
 Smith, Charles H., Knoxville, Tenn.
 Smith, Charles W., Indianapolis, Ind.
 Smith, Charles W., Stockton, Kan.
 Smith, D. F., Kalispell, Mont.
 Smith, Edward E., Minneapolis, Minn.
 Smith, Edward G., Clarksburg, W. Va.
 Smith, Edwin W., Pittsburg, Pa.
 Smith, Fitz-Henry, Jr., Boston, Mass.
 Smith, Frank, Marion, Ark.
 Smith, Frank Bulkeley, Worcester, Mass.
 Smith, Frank O., Prescott, Ariz.
 Smith, Frank Sullivan, New York, N. Y.
 Smith, Frederick A., Chicago, Ill.
 Smith, George H., Salt Lake City, Utah.
 Smith, Gilmer P., Memphis, Tenn.
 Smith, Gregory L., Mobile, Ala.
 Smith, Hal H., Detroit, Mich.
 Smith, Harrison Brooks, Charleston, W. Va.
 Smith Harvey F., Clarksburg, W. Va.
 Smith, Henry E., Nashville, Tenn.
 Smith, Henry Hyde, Boston, Mass.
 Smith, Howard B., Omaha, Neb.
 Smith, Isham N., Portland, Ore.
 Smith, Jeremiah, Jr., Boston, Mass.
 Smith, John L., Cleveland, Tenn.
 Smith, John Lewis, Washington, D. C.
 Smith, John R., Denver, Col.
 Smith, Lawrence W., Iona, Mich.
 Smith, Luther Ely, St. Louis, Mo.
 Smith, Luther R., Washington, D. C.
 Smith, Lyndon A., Montevideo, Minn.
 Smith, Milton W., Portland, Ore.
 Smith, Nelson, New York, N. Y.
 Smith, O. M., Valdosta, Ga.
 Smith, Robert H., Baltimore, Md.
 Smith, Robert T., Nashville, Tenn.
 Smith, Rufus B., Cincinnati, Ohio.
 Smith, Samuel Bosworth, Chattanooga, Tenn.
 Smith, Sam. Ferry, San Diego, Cal.
 Smith, Samuel W., Jr., Cincinnati, Ohio.
 Smith, Solon W., Liberal, Kan.
 Smith, Stuart R., Beaumont, Texas.
 Smith, Thomas Kilby, Philadelphia, Pa.
 Smith, Victor Lamar, Atlanta, Ga.
 Smith, Walter Bourne, Chicago, Ill.
 Smith, Walter George, Philadelphia, Pa.
 Smith, William B., Little Rock, Ark.
 Smith, William M., St. Johns, Mich.
 Smith, William O., Honolulu, Hawaii.
 Smith, Wm. T., Sparta, Tenn.
 Smith, Willis R., Richmond, Va.
 Smith, Winfield R., Seattle, Wash.
 Smithdeal, C. M., Hillsboro, Tex.
 Smithers, William W., Philadelphia, Pa.
 Smythson, Noble, Knoxville, Tenn.
 Smyser, Nathan S., Chicago, Ill.

- Smythe, Augustine T., Charleston, S. C.
 Snare, Jacob, Philadelphia, Pa.
 Snodgrass, Robert, Harrisburg, Pa.
 Snow, Alpheus H., Washington, D. C.
 Snow, David W., Portland, Me.
 Snow, Lealie, P., Rochester, N. H.
 Snyder, Charles M., Fowler, Ind.
 Snyder, F. B., Minneapolis, Minn.
 Snyder, Wilson I., Salt Lake City, Utah.
 Sohler, Wm. D., Boston, Mass.
 Sobon, Henry W., Washington, D. C.
 Solinger, Jacob, Louisville, Ky.
 Somerville, Thomas H., Oxford, Miss.
 Sommerville, J. B., Wheeling, W. Va.
 Sommerville, W. B., New Orleans, La.
 Sonnenberg, Louis M., New York, N. Y.
 Soule, Frank, New Orleans, La.
 Southard, Louis C., Boston, Mass.
 Southmayd, L. H., Van Buren, Ark.
 Southworth, Constatant, Cincinnati, Ohio.
 Spalding, Burleigh Folsom, Fargo, N. D.
 Spalding, E. W., Washington, D. C.
 Sparkman, S. M., Tampa, Fla.
 Speake, Paul, Huntsville, Ala.
 Spear, Ellis, Washington, D. C.
 Spearling, J. Zach., New Orleans, La.
 Spears, W. D., Chattanooga, Tenn.
 Speer, Emory, Macon, Ga. (Mt. Airy, Ga.)
 Spellmay, Denis A., New York, N. Y.
 Spellman, Benjamin F., New York, N. Y.
 Spence, Union L., Carthage, N. C.
 Spencer, Charles C., Monticello, Ind.
 Spencer, Frederick G., Fulton, N. Y.
 Spencer, Nelson E., Rochester, N. Y.
 Spencer, Selden P., St. Louis, Mo.
 Spencer, Walker Brainard, New Orleans, La.
 Spiegelberg, Eugene E., New York, N. Y.
 Spilman, Robert S., Charleston, W. Va.
 Spooner, Charles P., Seattle, Wash.
 Spooner, John C., New York, N. Y.
 Spoons, M. A., Fort Worth, Tex.
 Sprague, Charles H., Boston, Mass.
 Sprague, Rufus W., Jr., New York, N. Y.
 Spratt, Thos., Ogdensburg, N. Y.
 Sprigg, Patterson, San Diego, Cal.
 Spring, Arthur L., Boston, Mass.
 Squire, Andrew, Cleveland, Ohio.
 Staab, Julian, Albuquerque, N. Mexico.
 Staake, William H., Philadelphia, Pa.
 Stafford, Ethelred M., New Orleans, La.
 Stafford, W. H., Chippewa Falls, Wis.
 Stagg, Charles Tracey, Ithaca, N. Y.
 Stambaugh, Harry F., Pittsburg, Pa.
 Stanton, Horace B., Boston, Mass.
 Stanton, Lewis E., Hartford, Conn.
 Stanwood, Philip C., Boston, Mass.
 Stapleton, Wm. J., Chicago, Ill.
 Starr, Merritt, Chicago, Ill.
 Stasel, Albert A., Newark, Ohio.
 Stayton, Joseph M., Newport, Ark.
 Stearns, Chas. F., Providence, R. I.
 Stearns, Frederic W., Chicago, Ill.
 Stearns, J. O., Portland, Ore.
 Stebbins, Byron H., Madison, Wis.
 Stebbins, Charles H., Boston, Mass.
 Stebbins, Lewis A., Chicago, Ill.
 Stedman, Livingston B., Seattle, Wash.
 Steel, Will., Texarkana, Ark.
 Steele, Henry J., Easton, Pa.
 Steele, John H., Minneapolis, Minn.
 Steele, Percival, Chicago, Ill.
 Steele, Sanford H., New York, N. Y.
 Steele, W. M., Superior, Wis.
 Steen, J. M., Memphis, Tenn.
 Stelk, John, Chicago, Ill.
 Stephens, R. Allan, Danville, Ill.
 Stephens, Redmond D., Chicago, Ill.
 Sterling, Thomas, Vermillion, S. D.
 Stern, David, Greensboro, N. C.
 Stern, Jo. Lane, Richmond, Va.
 Stern, Philip H., Montgomery, Ala.
 Sterne, Samuel R., Spokane, Wash.
 Sterrett, James R., Pittsburg, Pa.
 Stetson, Francis Lynde, New York, N. Y.
 Steuart, James L., New York, N. Y.
 Stevens, E. Ray, Madison, Wis.
 Stevens, Frederick W., New York, N. Y.
 Stevens, Geo. M., Chicago, Ill.
 Stevens, Henry L., Warsaw, N. O.
 Stevens, J. Morgan, Hattiesburg, Miss.
 Stevens, John C., Jr., Milwaukee, Wis.
 Stevenson, Archie M., Denver, Col.
 Stevenson, Elmer E., Indianapolis, Ind.
 Stevenson, Eugene, Paterson, N. J.
 Stevenson, L. C., Tacoma, Wash.
 Stewart, A. K., Des Moines, Iowa.
 Stewart, Alphonso Chase, St. Louis, Mo.
 Stewart, Calvin, Kenosha, Wis.
 Stewart, Geo. B., Fort Madison, Iowa.
 Stewart, Gilbert H., Columbus, Ohio.
 Stewart, Maco, Galveston, Texas.
 Stewart, Robert W., Chicago, Ill.
 Stewart, Russell C., Easton, Pa.
 Stewart, T. Lawrence, Jasper, Tenn.
 Stewart, W. F. Bay, York, Pa.
 Stewart, Willard E., Lincoln, Neb.
 Stewart, William M., Jr., Philadelphia, Pa.
 Stickney, Wm. B. C., Rutland, Vt.
 Stier, Joseph F., New York, N. Y.

- Stiles, James A., Gardner, Mass.
 Stillman, Herman W., Chicago, Ill.
 Stillman, Walter S. (Omaha, Neb.),
 Council Bluffs, Iowa.
 Stilwell, Wm. H., Phoenix, Ariz.
 Stinchfield, Fred. H., Minneapolis, Minn.
 Stiness, Edward C., Providence, R. I.
 Stivers, Frank A., Ann Arbor, Mich.
 Stockbridge, Henry, Baltimore, Md.
 Stockton, Howard, Jr., Boston, Mass.
 Stockwell, Herbert G., Philadelphia, Pa.
 Stoddard, Elliott J., Detroit, Mich.
 Stoddard, John M., New York, N. Y.
 Stoeck, Oscar, Cincinnati, Ohio.
 Stoever, William C., Philadelphia, Pa.
 Stokely, J. T., Birmingham, Ala.
 Stokes, Gordon, Nashville, Tenn.
 Stokes, Wyndham, Welch, W. Va.
 Stoll, Richard C., Lexington, Ky.
 Stollenwerck, Frank, Jr., Montgomery,
 Ala.
 Stolz, Benjamin, Syracuse, N. Y.
 Stone, Charles B., West Acton, Mass.
 Stone, Edward C., Boston, Mass.
 Stone, Frederic M., Boston, Mass.
 Stone, Harlan F., New York, N. Y.
 Stone, Henry L., Louisville, Ky.
 Stone, John G., Houghton, Mich.
 Stone, John W., Lansing, Mich.
 Stone, Robert, Topeka, Kan.
 Stone, Robert B., Boston, Mass.
 Stone, Willmore B., Springfield, Mass.
 Storey, Moorfield, Boston, Mass.
 Storey, Richard C., Boston, Mass.
 Storrs, Henry E., Los Angeles, Cal.
 Story, Hampden, Crowley, La.
 Story, William, Salt Lake City, Utah.
 Stoughton, A. B., Philadelphia, Pa.
 Stout, J. W., Cumberland City, Tenn.
 Stovall, A. T., Okalona, Miss.
 Stover, Martin L., New York, N. Y.
 Stow, Fred. W., Fort Collins, Col.
 Stowe, William Evans, Oxford, Miss.
 Strang, S. Bartow, Chattanooga, Tenn.
 Stratton, Charles E., Boston, Mass.
 Straus, Simeon, Chicago, Ill.
 Strauss, Charles, New York, N. Y.
 Strauss, Oscar, Des Moines, Iowa.
 Strawn, Silas H., Chicago, Ill.
 Street, Robert G., Galveston, Tex.
 Streeter, Frank S., Concord, N. H.
 Stricker, Sidney G., Cincinnati, Ohio.
 Strickland, John J., Athens, Ga.
 Stringer, Edward C., St. Paul, Minn.
 Stroth, Charles C., Harrisburg, Pa.
 Strong, Alan H., New Brunswick, N. J.
 Strong, Edward W., Cincinnati, Ohio.
 Strother, D. J. F., Welch, W. Va.
 Strother, James French, Welch, W. Va.
 Strout, Henry F., Boston, Mass.
 Stryker, John E., St. Paul, Minn.
 Stuart, Chas. B., Oklahoma City, Okla.
 Stuart, T. G., Winchester, Ky.
 Stuart, William V., Lafayette, Ind.
 Stubbs, Frank P., Jr., Monroe, La.
 Stueve, Clement A., Wapakoneta, Ohio.
 Sturdevant, Willard L., St. Louis, Mo.
 Sturges, Ralph A., New York, N. Y.
 Sturgis, Roger F., Boston, Mass.
 Sturgis, W. J., Uniontown, Pa.
 Sturtevant, Charles L., Washington,
 D. C.
 Suffren, Chas. C., Brooklyn, N. Y.
 Suggett, John W., Cortland, N. Y.
 Sullivan, Francis W., Duluth, Minn.
 Sullivan, Frank P., Sault Ste. Marie,
 Mich.
 Sullivan, J. J., Pensacola, Fla.
 Sullivan, James W., Lynn, Mass.
 Sullivan, Jerry B., Des Moines, Iowa.
 Sullivan, William B., Boston, Mass.
 Sullivan, William C., Washington, D. C.
 Sullivan, Wm. H., Rochester, N. Y.
 Sulzberger, Mayer, Philadelphia, Pa.
 Sumnerwell, E. K., New York, N. Y.
 Sumner, Edward A., New York, N. Y.
 Surratt, William H., Baltimore, Md.
 Sutherland, George G., Janesville, Wis.
 Sutro, Theodore, New York, N. Y.
 Sutton, Robert Woods, Pittsburg, Pa.
 Swaim, Roger Dyer (Boston, Mass.),
 Cambridge, Mass.
 Swan, Charles Herbert, Boston, Mass.
 Swan, George Brewster, Beaver Dam, Wis.
 Swan, James G., Minneapolis, Minn.
 Swaney, W. B., Chattanooga, Tenn.
 Swansen, Sam T., Madison, Wis.
 Swartley, Francis K., Philadelphia, Pa.
 Swarts, Solomon L., St. Louis, Mo.
 Swasey, John P., Canton, Me.
 Swayze, Francis J., Newark, N. J.
 Swearingen, J. M., Pittsburg, Pa.
 Sweetser, George A., Boston, Mass.
 Swetting, Ernest V., Algona, Iowa.
 Swift, Charles M., Detroit, Mich.
 Swift, James Marcus, Boston, Mass.
 Switzer, John F., Topeka, Kan.
 Symes, J. Foster, Denver, Colo.
 Symmers, James Keith, New York, N. Y.
 Symonds, Joseph W., Portland, Me.
 Synnestvedt, Paul, Pittsburg, Pa.
 Taft, Elihu B., Burlington, Vt.

- Taft, Frederick L., Cleveland, Ohio.
 Taft, George S., Worcester, Mass.
 Taft, Henry W., New York, N. Y.
 Taft, William H. (Washington, D. C.),
 Cincinnati, Ohio.
 Taggart, Edward, Grand Rapids, Mich.
 Taggart, Ganson, Grand Rapids, Mich.
 Taggart, W. Rush, New York, N. Y.
 Taintor, Giles, Boston, Mass.
 Talcott, Charles A., Utica, N. Y.
 Taliaferro, Thos. Seddon, Jr., Rock
 Springs, Wyo.
 Tallman, Boyd J., Seattle, Wash.
 Tappen, J. B. Coles, New York, N. Y.
 Tarlton, B. D., Austin, Tex.
 Tate, Hugh M., Knoxville, Tenn.
 Taub, Otto, Houston, Texas.
 Taulane, Joseph H., Philadelphia, Pa.
 Tausig, James, St. Louis, Mo.
 Tavenner, Lewis A., Parkersburg, W. Va.
 Tawney, James A., Winona, Minn.
 Taylor, Alva E., Huron, S. D.
 Taylor, Archibald H., Baltimore, Md.
 Taylor, Benjamin, Mankato, Minn.
 Taylor, Benjamin, Port Chester, N. Y.
 Taylor, Francis B., Hempstead, N. Y.
 Taylor, Frederick C., Stamford, Conn.
 Taylor, H. H., Key West, Fla.
 Taylor, Hannis, Washington, D. C.
 Taylor, Howard, New York, N. Y.
 Taylor, John Robert, New York, N. Y.
 Taylor, Jonathan, Akron, Ohio.
 Taylor, Joseph T., Philadelphia, Pa.
 Taylor, Leslie J., Taylorville, Ill.
 Taylor, Perry Post, St. Louis, Mo.
 Taylor, R. S., Fort Wayne, Ind.
 Taylor, Seneca N., St. Louis, Mo.
 Taylor, Thomas, Jr., Chicago, Ill.
 Taylor, Walter F., New York, N. Y.
 Teal, Joseph N., Portland, Ore.
 Teall, Fred A., Milwaukee, Wis.
 Teara, Daniel W., Denver, Col.
 Teigen, Tore, Sioux Falls, S. D.
 Teller, Carroll A., Chicago, Ill.
 Teller, John D., Auburn, N. Y.
 Templeton, Richard H., Buffalo, N. Y.
 Tennant, W. Brydon, Richmond, Va.
 Tenney, Horace Kent, Chicago, Ill.
 Terhune, R. S., Seattle, Wash.
 Terrell, William J., Burlington, N. J.
 Terberry, George Hutchins, New Orleans,
 La.
 Terry, Charles Thaddeus, New York,
 N. Y.
 Terry, J. W., Galveston, Tex.
 Terry, Walter J., Little Rock, Ark.
 Texidor, Jacinto, San Juan, P. R.
 Thacher, Archibald G., New York, N. Y.
 Thacher, John H., Kansas City, Mo.
 Thacher, Thomas, New York, N. Y.
 Thayer, Ezra R., Cambridge, Mass.
 Thayer, Henry Holmes, Worcester, Mass.
 Thayer, Rufus C., San Francisco, Cal.
 Thayer, Rufus H., Shanghai, China.
 Thayer, Wade Warren, Honolulu, Hawaii.
 Theard, Charles J., New Orleans, La.
 Theobald, Thos. Dudley, Grayson, Ky.
 Thian, Louis R., Minneapolis, Minn.
 Thilborger, Edward J., New Orleans, La.
 Thom, Alfred P., Washington, D. C.
 Thoin, Corcoran, Washington, D. C.
 Thom, J. Pembroke, Baltimore, Md.
 Thomas, Charles S., Denver, Col.
 Thomas, Edward H., Washington, D. C.
 Thomas, Edwin S., New Haven, Conn.
 Thomas, Gus, Mayfield, Ky.
 Thomas, J. Hanson, Baltimore, Md.
 Thomas, John P., Jr., Columbia, S. C.
 Thomas, Morris St. Palais, Chicago, Ill.
 Thomas, R. C. P., Bowling Green, Ky.
 Thomas, Samuel Hinds, Philadelphia, Pa.
 Thomas, Thomas W., Bowling Green, Ky.
 Thomas, W. G. M., Chattanooga, Tenn.
 Thomas, William H., Santa Ana, Cal.
 Thomas, Wm. O., Kansas City, Mo.
 Thomason, Edwin Brawne, Richmond, Va.
 Thomason, Frank D., Chicago, Ill.
 Thomason, Samuel Emory, Chicago, Ill.
 Thompson, A. C. N., Middletown, N. Y.
 Thompson, A. M., Pittsburg, Pa.
 Thompson, Arthur R., Washington, D. C.
 Thompson, Benjamin, Portland, Me.
 Thompson, Chas. S., Milwaukee, Wis.
 Thompson, Charles T., Minneapolis,
 Minn.
 Thompson, David A., Albany, N. Y.
 Thompson, Geo. E., Bangor, Me.
 Thompson, John C., Oshkosh, Wis.
 Thompson, John Walcott, Salt Lake City,
 Utah.
 Thompson, Robert H., Jackson, Miss.
 Thompson, William B., St. Louis, Mo.
 Thompson, William G., Boston, Mass.
 Thompson, William H., Grand Island,
 Neb.
 Thorndike, John Larkin, Boston, Mass.
 Thorne, Clifford, Des Moines, Iowa.
 Thorne, Samuel, Jr., New York, N. Y.
 Thornley, William H., Providence, R. I.
 Thornton, Charles S., Chicago, Ill.
 Thornton, Howard A., Grand Rapids,
 Mich.

- Thornton, J. R., Alexandria, La.
 Thornton, Robert A., Lexington, Ky.
 Thraves, Meade G., Fremont, Ohio.
 Throckmorton, Archibald Hall, Bloomington, Ind.
 Thum, William Warwick, Louisville, Ky.
 Thurston, Edward S., Minneapolis, Minn.
 Thurston, John M., Washington, D. C.
 Thurston, Wilmarth H., Providence, R. I.
 Thygeson, N. M., Minneapolis, Minn.
 Tibbs, William L., Milwaukee, Wis.
 Tice, David, Lockport, N. Y.
 Tiffany, Francis B., St. Paul, Minn.
 Tift, Arthur P., Portland, Ore.
 Tift, Irving H., New York, N. Y.
 Tighe, Ambrose, St. Paul, Minn.
 Tillett, Charles W., Charlotte, N. C.
 Tillingham, Frank W., Providence, R. I.
 Tillinghast, James, Providence, R. I.
 Tillinghast, William E., Providence, R. I.
 Tillman, A. M., Nashville, Tenn.
 Tillman, John P., Birmingham, Ala.
 Timlin, Wm. H., Milwaukee, Wis.
 Tinklepaugh, George S., Palmyra, N. Y.
 Tippet, Richard B., Baltimore, Md.
 Tisdale, Archibald R., Boston, Mass.
 Titcher, Bernard, New Orleans, La.
 Titus, Frank, Kansas City, Mo.
 Titus, H. L., San Diego, Cal.
 Tivnen, Bryan H., Mattoon, Ill.
 Tobin, John F., New Orleans, La.
 Todd, Elmer E., Seattle, Wash.
 Todd, M. Hampton, Philadelphia, Pa.
 Todd, Oliver J., Beaumont, Texas.
 Tolbert, James E., Hobart, Okla.
 Tolles, Sheldon H., Cleveland, Ohio.
 Tolman, Edgar B., Chicago, Ill.
 Tolman, Warren W., Spokane, Wash.
 Tomlin, John G., Walton, Ky.
 Tompkins, Hamilton B., New York, N. Y.
 Tompkins, William V., Prescott, Ark.
 Tompison, Edward F., Portland, Me.
 Toolen, Clarence A., Chicago, Ill.
 Toomer, W. M., Jacksonville, Fla.
 Toro, Emilio del, San Juan, P. R.
 Torrison, Oscar M., Chicago, Ill.
 Totten, William D., Seattle, Wash.
 Towle, Henry S., Chicago, Ill.
 Towne, Charles A., New York, N. Y.
 Townes, John C., Austin, Tex.
 Townes, William A., Wilmington, N. C.
 Towns, Mirabeau L., New York, N. Y.
 Townsend, Charles C., Philadelphia, Pa.
 Townshend, Henry H., New Haven, Conn.
 Trabue, Chas. C., Nashville, Tenn.
 Trabue, Edmund F., Louisville, Ky.
 Tracey, James F., Albany, N. Y.
 Tracy, Benjamin F., New York, N. Y.
 Travia, S. E., Hattiesburg, Miss.
 Traxler, Charles J., Minneapolis, Minn.
 Treadwell, Leman B., New York, N. Y.
 Trefethen, D. B., Seattle, Wash.
 Trenholm, Frank, New York, N. Y.
 Trickett, William, Carlisle, Pa.
 Trieber, Jacob, Little Rock, Ark.
 Trimble, James M., Chattanooga, Tenn.
 Trimble, William P., Seattle, Wash.
 Tripp, William M., Wells, Me.
 Trippet, Oscar A., Los Angeles, Cal.
 Triaka, Joseph F., Chicago, Ill.
 Trott, Joseph M., Bath, Me.
 Trotman, James F., Milwaukee, Wis.
 Troup, Charles, Danville, Ill.
 Trumbull, Donald S., Chicago, Ill.
 Tryon, Charles J., Minneapolis, Minn.
 Tucker, Charles Cowles, Washington, D. C.
 Tucker, George F., Boston, Mass.
 Tucker, Henry St. George, Lexington, Va.
 Tucker, Wilmon, Seattle, Wash.
 Tullis, Robert L., Baton Rouge, La.
 Tumstall, Robert B., Norfolk, Va.
 Turner, Frank G., Baltimore, Md.
 Turner, George, Spokane, Wash.
 Turner, Harry R., Fargo, N. D.
 Turner, Jesse, Van Buren, Ark.
 Turner, L. T., Seattle, Wash.
 Turner, Smith D., Parkersburg, W. Va.
 Turner, T. A., Jonesboro, Ark.
 Turner, William J., Milwaukee, Wis.
 Turner, William Jay, Philadelphia, Pa.
 Turney, John E., Nashville, Tenn.
 Turrell, Edgar A., New York, N. Y.
 Tustin, Ernest L., Philadelphia, Pa.
 Tuthill, Harry B., Michigan City, Ind.
 Tuttle, Arthur J., Detroit, Mich.
 Tuttle, J. Birney, New Haven, Conn.
 Tuttle, Jos. P., Hartford, Conn.
 Twitchell, LaFayette, Denver, Col.
 Tye, John L., Atlanta, Ga.
 Tyler, Charles H., Boston, Mass.
 Tyler, Frederick S., Washington, D. C.
 Tyler, Marion L., Boston, Mass.
 Tyne, Thomas J., Nashville, Tenn.
 Tyson, Chas. M., Darien, Ga.
 Ueland, A., Minneapolis, Minn.
 Umbel, Robert E., Uniontown, Pa.
 Umbreit, A. C., Milwaukee, Wis.
 Underwood, Arthur W., Chicago, Ill.
 Underwood, Geo. A., Ames, Iowa.
 Underwood, W. Orison, Boston, Mass.

- Untermyer, Samuel, New York, N. Y.
 Upham, Horace A., J., Milwaukee, Wis.
 Upton, Eugene C., Boston, Mass.
 Urion, Alfred R., Chicago, Ill.
 Urner, Hammond, Frederick, Md.
 Ussra, Jose Hernandez, San Juan, P. R.
 Vabey, James H., Boston, Mass.
 Valle, Joel F., Denver, Col.
 Vale, Ruby R., Philadelphia, Pa.
 Valentine, A. Jay, Parsons, W. Va.
 Van Allen, John W., Buffalo, N. Y.
 Van Alstine, C. H., Milwaukee, Wis.
 Vanamee, William, Newburgh, N. Y.
 Van Bouskirk, DeWitt, Bayonne, N. J.
 Vance, William R., Minneapolis, Minn.
 Van Cise, Edwin, Denver, Col.
 Van Cleef, James H., New Brunswick, N. J.
 VanCleaf, Mynderse, Ithaca, N. Y.
 Van Cott, Waldemar, Salt Lake City, Utah.
 VanDeman, John N., Dayton, Ohio.
 Vandervort, James W., Parkersburg, W. Va.
 Van Devanter, Willis (Washington, D. C.), Cheyenne, Wyo.
 Van Deventer, Horace, Knoxville, Tenn.
 Van Dusen, James H., Omaha, Neb.
 Van Dusen, Louis H., Philadelphia, Pa.
 Van Dyke, Douglass, Milwaukee, Wis.
 Van Dyke, George D., Milwaukee, Wis.
 Van Dyke, Henry S., Los Angeles, Cal.
 Van Dyke, William D., Milwaukee, Wis.
 Van Etten, John G., Kingston, N. Y.
 Van Everen, Horace, Boston, Mass.
 Van Iderstine, Robert, New York, N. Y.
 Van Law, C. H., Marshalltown, Iowa.
 Vann, Irving Dillaye, Syracuse, N. Y.
 Van Ordel, Josiah A., Washington, D. C.
 Vans Agnew, P. A., Kissimmee, Fla.
 Van Sinderen, Howard, New York, N. Y.
 Van Slyck, George W., New York, N. Y.
 Van Winkle, Kingsland, Asheville, N. C.
 Van Winkle, W. W., Parkersburg, W. Va.
 Van Zante, John, Portland, Ore.
 Varian, Alfred Wright, New York, N. Y.
 Varian, Charles S., Salt Lake City, Utah.
 Vates, William B., Pueblo, Col.
 Vaughan, Ernest H., Worcester, Mass.
 Vaughan, Geo., Little Rock, Ark.
 Vaughan, Henry G., Boston, Mass.
 Vaughan, Wm. W., Boston, Mass.
 Vaughn, Robert, Nashville, Tenn.
 Venney, James A., Bartlesville, Okla.
 Veeder, Henry, Chicago, Ill.
 Velde, Franklin L., Pekin, Ill.
 Verrill, Harry M., Portland, Me.
 Vertrees, John J., Nashville, Tenn.
 Vidal, Henry C., Pueblo, Colo.
 Vierling, Frederick, St. Louis, Mo.
 View, Henry A., New York, N. Y.
 Villard, Harold G., New York, N. Y.
 Vineyard, J. J., Kansas City, Mo.
 Virgin, Harry Rush, Portland, Me.
 Vitti, Marcel A., Philadelphia, Pa.
 Voigt, John F., Chicago, Ill.
 von Moschzisker, Robert, Philadelphia, Pa.
 Voorhees, Harvey C., Boston, Mass.
 Voorhees, John H., Sioux Falls, S. D.
 Voorhees, Reese H., Spokane, Wash.
 Voorhees, Willard P., New Brunswick, N. J.
 Vorhaus, Louis J., New York, N. Y.
 Vorys, Arthur L., Columbus, Ohio.
 Vose, Frederic Perry, Chicago, Ill.
 Vroman, Charles E., Chicago, Ill.
 Vroom, Garrett D. W., Trenton, N. J.
 Waddill, C. J., Madisonville, Ky.
 Wade, M. J., Iowa City, Iowa.
 Wade, Peyton L., Dublin, Ga.
 Wadhams, Frederick E., Albany, N. Y.
 Waggener, Balie P., Atchison, Kan.
 Waggener, William P., Atchison, Kan.
 Wagner, E. E., Mitchell, S. D.
 Wagner, Franklin Allan, New York, N. Y.
 Wagner, George M., Philadelphia, Pa.
 Wagner, Hugh K., St. Louis, Mo.
 Wagstaff, Thos. E., Independence, Kan.
 Waguespack, W. J., New Orleans, La.
 Wait, Horatio Loomis, Chicago, Ill.
 Wait, Wm. Cushing, Boston, Mass.
 Waite, Edward F., Minneapolis, Minn.
 Wakefield, John Lathrop, Boston, Mass.
 Wakefield, William J. C., Spokane, Wash.
 Wakeley, Eleazer, Omaha, Neb.
 Waldo, Benjamin T., New Orleans, La.
 Waldo, George E., New York, N. Y.
 Waldo, John F. C., New Orleans, La.
 Walker, Albert H., New York, N. Y.
 Walker, Chas. A. J., Cincinnati, Ohio.
 Walker, Henry G., Iowa City, Iowa.
 Walker, Legare, Summerville, S. C.
 Walker, Mortimer E., Racine, Wis.
 Walker, Paul E., Topeka, Kan.
 Walker, Philip, Washington, D. C.
 Walker, Platt D., Raleigh, N. C.
 Walker, W. R., Athens, Ala.
 Walker, Wm. A., Jr., Milwaukee, Wis.
 Wall, Edward B., Fayetteville, Ark.
 Wall, George W., Du Quoin, Ill.
 Wall, Isaac D., Baton Rouge, La.

- Wall, John P., Tampa, Fla.
 Waller, Claude, Nashville, Tenn.
 Wallerstein, David, Philadelphia, Pa.
 Wallingford, John D., Des Moines, Iowa.
 Walsh, Arthur R., New York, N. Y.
 Walsh, James A., Helena, Mont.
 Walsh, Mark A., Clinton, Iowa.
 Walsh, Robert Jay, Greenwich, Conn.
 Walsh, Thomas J., Helena, Mont.
 Walsh, William E., Cumberland, Md.
 Walahe, George C., New Orleans, La.
 Walter, Luther M., Chicago, Ill.
 Walter, Moses R., Baltimore, Md.
 Walther, Lambert E., St. Louis, Mo.
 Walton, Charles W., Kingston, N. Y.
 Walton, Henry F., Philadelphia, Pa.
 Walton, J. F., New Orleans, La.
 Walton, Robert Kelsey, New York, N. Y.
 Wambaugh, Eugene, Cambridge, Mass.
 Ward, Benjamin G., Portland, Me.
 Ward, H. Judd, Troy, N. Y.
 Ward, Hamilton, Buffalo, N. Y.
 Ward, Henry Galbraith, New York, N. Y.
 Ward, Henry M., New York, N. Y.
 Ward, Herbert H., Wilmington, Del.
 Ward, M. L., San Diego, Cal.
 Wardner, G. Philip, Boston, Mass.
 Ware, Charles Eliot, Fitchburg, Mass.
 Ware, John D., Omaha, Neb.
 Ware, John Roland, Minneapolis, Minn.
 Warfield, Edwin, Baltimore, Md.
 Warfield, F. P., New York, N. Y.
 Warner, Charles E., Fort Smith, Ark.
 Warner, Donald T., Salisbury, Conn.
 Warner, Henry E., Boston, Mass.
 Warner, James Harold, Mexico City, Mex.
 Warner, John DeWitt, New York, N. Y.
 Warner, Joseph B., Boston, Mass.
 Warner, Milton B., Pittsfield, Mass.
 Warner, Stanley Clark, Denver, Col.
 Warrington, John W., Cincinnati, Ohio.
 Washburn, Jed L., Duluth, Minn.
 Washburn, William D., Chicago, Ill.
 Waterman, Charles W., Denver, Col.
 Waterman, Lewis Anthony, Providence, R. I.
 Waters, Asa W. (Cambridge, Mass.), Philadelphia, Pa.
 Waters, Bertram G., Boston, Mass.
 Waters, Henry J., Princess Anne, Md.
 Waters, J. S. T., Baltimore, Md.
 Waters, Louis L., Syracuse, N. Y.
 Watkins, Edgar, Atlanta, Ga.
 Watkins, Henry H., Anderson, S. C.
 Watrous, George D., New Haven, Conn.
 Watson, Archibald Robinson, New York, N. Y.
 Watson, David Thompson, Pittsburg, Pa.
 Watson, Edward M., Honolulu, Hawaii.
 Watson, James A., Washington, D. C.
 Watson, James T., Duluth, Minn.
 Watson, Robert, Washington, D. C.
 Wattenscheidt, Christopher E., Baltimore, Md.
 Watterson, A. V. D., Pittsburg, Pa.
 Watts, Cornelius C., Charleston, W. Va.
 Watts, Legh R., Portsmouth, Va.
 Watts, Millard F., St. Louis, Mo.
 Way, William A., Pittsburg, Pa.
 Wead, Leslie C., Boston, Mass.
 Weadock, Thomas A. E., Detroit, Mich.
 Weakley, Samuel D., Birmingham, Ala.
 Weatherly, James, Birmingham, Ala.
 Weaver, Aubrey G., Front Royal, Va.
 Weaver, James B., Jr., Des Moines, Iowa.
 Weaver, John, Philadelphia, Pa.
 Webb, George T., Merricourt, N. D.
 Webb, Howard C., New Haven, Conn.
 Webb, James H., New Haven, Conn.
 Webb, Willoughby Lane, New York, N. Y.
 Webber, George, Texarkana, Ark.
 Webber, George Curtis, Auburn, Me.
 Webber, Marshall B., Winona, Minn.
 Webber, Marville C., Rutland, Vt.
 Webber, T. E., Texarkana, Ark.
 Weber, Harry P., Chicago, Ill.
 Webster, John L., Omaha, Neb.
 Webster, Lionel R., Portland, Ore.
 Weed, Alonzo R., Boston, Mass.
 Weeks, Elbert Wright, Guthrie Center, Iowa.
 Wehe, Waldemar C., Milwaukee, Wis.
 Weil, A. Leo, Pittsburg, Pa.
 Weil, Arnold Charles, New York, N. Y.
 Weil, Jonas, Minneapolis, Minn.
 Welmer, Albert B., Philadelphia, Pa.
 Weinfield, Charles, Chicago, Ill.
 Weissenbach, Joseph, Chicago, Ill.
 Welch, E. C., Cottondale, Fla.
 Welch, Thomas Cary, Manila, P. I.
 Welch, W. S., Laurel, Miss.
 Welch, Wm. S., Chicago, Ill.
 Wellford, Beverly Randolph, Richmond, Va.
 Wellman, Arthur H., Boston, Mass.
 Wells, Ben H., Jackson, Miss.
 Wells, Frank, Oklahoma City, Okla.
 Wells, Hosea W., Chicago, Ill.
 Wells, Ross, St. Marys, W. Va.
 Wells, T. Thleston, New York, N. Y.
 Wemple, William L., New York, N. Y.

- Wendt, John S., Pittsburg, Pa.
 Wensley, Robert L., New York, N. Y.
 Wentworth, Daniel S., Chicago, Ill.
 Werner, Charles H., New York, N. Y.
 Werner, Percy, St. Louis, Mo.
 Wesselman, Henry B., New York, N. Y.
 West, Joel W., Omaha, Neb.
 West, Judson S., Topeka, Kan.
 West, Preston C., Muskogee, Okla.
 West, Roy O., Chicago, Ill.
 West, Samuel H., St. Louis, Mo.
 West, Thomas Franklin, Milton, Fla.
 Weston, Robert Dickson, Boston, Mass.
 Weston, Thomas, Jr., Boston, Mass.
 Westwood, Herman J., Fredonia, N. Y.
 Wetherill, Charles, Philadelphia, Pa.
 Wetherill, John Lawrence, Philadelphia, Pa.
 Wetmore, Edmund, New York, N. Y.
 Wetmore, Silas MacBee, Spartanburg, S. C.
 Wetten, Emil C., Chicago, Ill.
 Whalen, John, New York, N. Y.
 Wharton, Wm. F., Boston, Mass.
 Wheatley, H. Winship, Washington, D. C.
 Wheeler, Arthur Dana, Chicago, Ill.
 Wheeler, Chas. E., Buffalo, N. Y.
 Wheeler, Charles K., Paducah, Ky.
 Wheeler, Everett P., New York, N. Y.
 Wheeler, Henry, Boston, Mass.
 Wheeler, James E., New Haven, Conn.
 Wheeler, Seth S., Lima, Ohio.
 Wheelock, William W., Chicago, Ill.
 Wheelwright, John O. P., Minneapolis, Minn.
 Whelan, Chas. E., Madison, Wis.
 Whelan, Ralph, Minneapolis, Minn.
 Wheless, Joseph, St. Louis, Mo.
 Whipple, Durand, Little Rock, Ark.
 Whipple, Sherman L., Boston, Mass.
 White, Alden P., Salem, Mass.
 White, Benjamin D., Norfolk, Va.
 White, Edward J., Kansas City, Mo.
 White, Frank Owen, Boston, Mass.
 White, Frank S., Birmingham, Ala.
 White, Frank S., Jr., Birmingham, Ala.
 White, George Thomas, Chattanooga, Tenn.
 White, H. H., Alexandria, La.
 White, Henry C., New Haven, Conn.
 White, John G., Cleveland, Ohio.
 White, Luther, Chicopee, Mass.
 White, Moses Perkins, Boston, Mass.
 White, Robert, Wheeling, W. Va.
 White, S. Harrison, Denver, Col.
 White, Thomas W., St. Louis, Mo.
 White, William G., St. Paul, Minn.
 White, William Henry, Jr., Norfolk, Va.
 Whitecotton, J. W. N., Provo, Utah.
 Whitehead, John M., Janesville, Wis.
 Whitehouse, Samuel S., New York, N. Y.
 Whitehouse, William P., Augusta, Me.
 Whitelock, George, Baltimore, Md.
 Whiteside, Alexander, Boston, Mass.
 Whitford, Daniel, New York, N. Y.
 Whiting, Borden D., Newark, N. J.
 Whiting, Charles S., Pierre, S. D.
 Whitlock, Henry C., Philadelphia, Pa.
 Whitlock, Victor E., New York, N. Y.
 Whitman, Edmund A., Boston, Mass.
 Whitman, Malcolm D. (Boston, Mass.), New York, N. Y.
 Whitman, Russell, Chicago, Ill.
 Whitmore, Chester W., Ottumwa, Iowa.
 Whitney, Max H., Chicago, Ill.
 Whitted, Elmer E., Denver, Col.
 Whittemore, James, Detroit, Mich.
 Whittier, Clarke B., Chicago, Ill.
 Whittlesey, Geo. P., Washington, D. C.
 Whittlesey, Granville, New York, N. Y.
 Whittlesey, John J., Pittsfield, Mass.
 Wickerham, George W. (Washington, D. C.), New York, N. Y.
 Wickware, Arthur M., New York, N. Y.
 Widaman, John D., Warsaw, Ind.
 Widule, Geo. C., Milwaukee, Wis.
 Wier, Frederick N., Lowell, Mass.
 Wierum, Otto C., Jr., New York, N. Y.
 Wigman, J. H. M., Green Bay, Wis.
 Wigmore, John H., Chicago, Ill.
 Wilcox, Analey, Buffalo, N. Y.
 Wilcox, Elmer A., Iowa City, Iowa.
 Wilcox, Roy Porter, Eau Claire, Wis.
 Wild, Robert, Milwaukee, Wis.
 Wilder, L. H., Norton, Kan.
 Wilder, William Royal, New York, N. Y.
 Wildes, Charles D., Raleigh, N. C.
 Wiles, Thomas L., Boston, Mass.
 Wiley, Robert E., Little Rock, Ark.
 Wildsey, Lebbeus R. (Mexico City, Mex.), St. Louis, Mo.
 Wildsey, Xenophon P., St. Louis, Mo.
 Wilgus, Horace L., Ann Arbor, Mich.
 Wilkerson, James H., Chicago, Ill.
 Wilkin, Charles A., Canon City, Col.
 Wilkins, Charles T., Detroit, Mich.
 Wilkinson, Adolphus C., North Yakima, Wash.

- Wilkinson, Ernest, Washington, D. C.
 Wilkinson, John B., Logan, W. Va.
 Willcox, Orlando B., New York, N. Y.
 Willcox, P. Alstin, Florence, S. C.
 Williams, Arthur B., Battle Creek, Mich.
 Williams, C. B., St. Louis, Mo.
 Williams, David P., Indianapolis, Ind.
 Williams, David W., Boston, Mass.
 Williams, E. P., Galesburg, Ill.
 Williams, E. Randolph, Richmond, Va.
 Williams, Ferdinand, Cumberland, Md.
 Williams, Frank B., New York, N. Y.
 Williams, Frederic M., New Milford, Conn.
 Williams, Geo. L., Grand Rapids, Wis.
 Williams, Harold P., Boston, Mass.
 Williams, Henry Davison, New York, N. Y.
 Williams, Henry W., Baltimore, Md.
 Williams, Ira Jewell, Philadelphia, Pa.
 Williams, J. Henry, Philadelphia, Pa.
 Williams, James A., Spokane, Wash.
 Williams, James C., Kansas City, Mo.
 Williams, Joe V., Chattanooga, Tenn.
 Williams, John G., Duluth, Minn.
 Williams, John G., Indianapolis, Ind.
 Williams, L. Judson, Charleston, W. Va.
 Williams, Orren T., Milwaukee, Wis.
 Williams, P. L., Salt Lake City, Utah.
 Williams, R. P., St. Louis, Mo.
 Williams, Samuel C., Johnson City, Tenn.
 Williams, Stevenson A., Bel Air, Md.
 Williams, Tyrrell, St. Louis, Mo.
 Williams, Wm. H., Derby, Conn.
 Williams, Wm. Leigh, Norfolk, Va.
 Williamson, Chas. J., Washington, D. C.
 Williamson, James D., Waco, Texas.
 Williamson, James F., Minneapolis, Minn.
 Williamson, John I., Kansas City, Mo.
 Williamson, W. B., Lake Charles, La.
 Williamson, W. Preston, Washington, D. C.
 Willis, George R., Baltimore, Md.
 Willis, John W., St. Paul, Minn.
 Willis, M. H., New Martinsville, W. Va.
 Williston, Samuel (Cambridge, Mass.). Belmont, Mass.
 Wilmer, L. Allison, La Plata, Md.
 Wilson, Andrew, Washington, D. C.
 Wilson, Butler R., Boston, Mass.
 Wilson, Cephas L., Marianna, Fla.
 Wilson, Charles A., Providence, R. I.
 Wilson, Charles M., Grand Rapids, Mich.
 Wilson, Clarence R., Washington, D. C.
 Wilson, Coryate S., Duluth, Minn.
 Wilson, Edmund, Red Bank, N. J.
 Wilson, Emmett, Pensacola, Fla.
 Wilson, Francis C., Santa Fe, N. M.
 Wilson, George L., Boston, Mass.
 Wilson, George P., Minneapolis, Minn.
 Wilson, Henry H., Lincoln, Neb.
 Wilson, John, Bangor, Me.
 Wilson, John N., Greensboro, N. C.
 Wilson, Julian C., Memphis, Tenn.
 Wilson, Mahlen E., Salt Lake City, Utah.
 Wilson, Nathaniel, Washington, D. C.
 Wilson, Samuel M., Lexington, Ky.
 Wilson, Virgil C., Portland, Me.
 Wilson, W. F., Oklahoma City, Okla.
 Wilson, Wm. T., Jacksonville, Ill.
 Wilson, Woodrow, Trenton, N. J.
 Wimbush, W. A., Atlanta, Ga.
 Winders, C. H., Seattle, Wash.
 Windes, Thomas G., Chicago, Ill.
 Windle, William S., West Chester, Pa.
 Wineman, Jacob B., Grand Forks, N. D.
 Winfree, W. H., Spokane, Wash.
 Wing, Arthur K., New York, N. Y.
 Wing, George Curtis, Auburn, Me.
 Wing, Henry T., New York, N. Y.
 Wingfield, Gustavus A., Norfolk, Va.
 Winkler, Frederick C., Milwaukee, Wis.
 Winalow, William Beverly, New York, N. Y.
 Winston, Garrard B., Chicago, Ill.
 Winston, R. W., Raleigh, N. C.
 Winterer, Herman, Valley City, N. D.
 Winternitz, Benjamin A., New Castle, Pa.
 Wintersteen, Abram H., Philadelphia, Pa.
 Wise, Edmond E., New York, N. Y.
 Wise, Henry A., New York, N. Y.
 Wise, Henry M., New York, N. Y.
 Wise, Jesse H., Pittsburg, Pa.
 Wislizenus, Fred A., St. Louis, Mo.
 Wisler, E. A., Carroll, Iowa.
 Withington, David L., Honolulu, Hawaii.
 Withrow, James E., St. Louis, Mo.
 Woerner, Wm. F., St. Louis, Mo.
 Wolcott, Frank T., Port Huron, Mich.
 Wolcott, Josiah O., Wilmington, Del.
 Wolf, Gustave A., Grand Rapids, Mich.
 Wolf, Henry Milton, Chicago, Ill.
 Wolf, Morris, Philadelphia, Pa.
 Wolfe, William Henry, Parkersburg, W. Va.
 Wolff, Oscar, Baltimore, Md.
 Wolff, Oscar M., Chicago, Ill.
 Wolff, Solomon, New Orleans, La.
 Wollman, Henry, New York, N. Y.
 Wolverton, Charles E., Portland, Ore.

Womack, T. J., Alva, Okla.
 Wood, Benjamin A., St. Louis, Mo.
 Wood, Edgar L., Milwaukee, Wis.
 Wood, Elijah C., Chicago, Ill.
 Wood, Fremont, Boise, Ida.
 Wood, John J., Jr., Berlin, Wis.
 Wood, John M., St. Louis, Mo.
 Wood, L. Elmer, Fall River, Mass.
 Wood, Sol A., Fort Wayne, Ind.
 Wood, Sterling A., Birmingham, Ala.
 Wood, Sterling M., Miles City, Montana.
 Woodard, Fred. A., Wilson, N. C.
 Woodard, Wm. H., Watertown, Wis.
 Woodford, Stewart L., New York, N. Y.
 Woodman, Albert S., Portland, Me.
 Woodman, Edward, Portland, Me.
 Woodrough, Joseph W., Omaha, Neb.
 Woodruff, Charles M., Detroit, Mich.
 Woodruff, Clinton Rogers, Philadelphia, Pa.
 Woodruff, George M., Litchfield, Conn.
 Woods, Charles Albert, Marion, S. C.
 Woods, Edgar H., Rosedale, Miss.
 Woods, Frank H., Lincoln, Neb.
 Woods, J. H., Corsicana, Tex.
 Woods, John Carter Brown, Providence, R. I.
 Woods, John M., Martinsburg, W. Va.
 Woods, Samuel B., Jr., Fort Smith, Ark.
 Woods, William W., Wallace, Idaho.
 Woodward, Frederic C., Stanford Univ., Cal.
 Woodward, John Butler, Wilkesbarre, Pa.
 Woolsey, Theo. S., New Haven, Conn.
 Worcester, Edwin D., New York, N. Y.
 Worden, Warren A., Tacoma, Wash.
 Work, James C., Uniontown, Pa.
 Work, James Henry, New York, N. Y.
 Works, John D., Los Angeles, Cal.
 Worsham, John C., Henderson, Ky.
 Worthington, Thomas, Jacksonville, Ill.
 Worthington, William, Cincinnati, Ohio.
 Wright, Arthur, New York, N. Y.
 Wright, Arthur W., Austin, Minn.
 Wright, Barry, Rome, Ga.
 Wright, Boardman, New York, N. Y.
 Wright, Charles H., Pittsfield, Mass.

Wright, James B., Knoxville, Tenn.
 Wright, William A., New Haven, Conn.
 Wright, Wm. B., Effingham, Ill.
 Wrightington, S. R., Boston, Mass.
 Wrightsman, Charles J., Tulsa, Okla.
 Wurta, John, New Haven, Conn.
 Wurzer, F. Henry, South Bend, Ind.
 Wurzer, Louis C., Detroit, Mich.
 Wyckoff, J. Edwards, New York, N. Y.
 Wyman, Frank T., Boise, Ida.
 Wyman, G. H., Anoka, Minn.
 Wyman, Harry C., Boise, Ida.
 Wyman, Henry A., Boston, Mass.
 Wysor, Joseph C., Pulaski City, Va.
 Yarrell, Leonidas D., Emporia, Va.
 Yeaman, Caldwell, Denver, Col.
 Yeaman, James M., Henderson, Ky.
 Yerkes, George B., Detroit, Mich.
 Yerkes, John W., Washington, D. C.
 Yockey, Chauncey W., Milwaukee, Wis.
 Youmans, Frank A., Fort Smith, Ark.
 Young, Charles H., New York, N. Y.
 Young, David K., Clinton, Tenn.
 Young, Edward B., St. Paul, Minn.
 Young, Eugene N. L., Long Island City, N. Y.
 Young, George B., Newport, Vt.
 Young, George R., Dayton, Ohio.
 Young, J. P., Memphis, Tenn.
 Young, Newton C., Fargo, N. D.
 Young, Owen D., Boston, Mass.
 Young, Stephen Emerson, Boston, Mass.
 Young, Thomas, Huntington, N. Y.
 Youngman, William S., Boston, Mass.
 Zabriskie, George, New York, N. Y.
 Zane, John M., Chicago, Ill.
 Zeisler, Sigmund, Chicago, Ill.
 Zillman, Christian C. H., Chicago, Ill.
 Zimmerman, S. R., Lancaster, Pa.
 Zimmers, Wm. J., Milwaukee, Wis.
 Zollcoffer, A. C., Henderson, N. C.
 Zollman, F. W., St. Paul, Minn.
 Zuntz, James E., New Orleans, La.

HONORARY MEMBER.

Bryce, James, British Ambassador,
 Washington, D. C.

STATE LIST OF MEMBERS

1912-1913.

ALABAMA.

Anderson, David S., Birmingham.
 Ball, Fred S., Montgomery.
 †Ballard, Eugene, Prattsville.
 Bromberg, Frederick G., Mobile.
 Brown, Lawrence E., Scottsboro.
 Cabanis, E. H., Birmingham.
 Coleman, Phares, Montgomery.
 Cooper, George P., Huntsville.
 Cooper, Lawrence, Huntsville.
 Crum, B. P., Montgomery.
 DeGraffenried, Edward, Greensboro.
 Dent, S. H., Jr., Montgomery.
 Foster, A. B., Troy.
 Godbey, E. W., Decatur.
 Goodwin, Robert Tyler, Montgomery.
 Guntor, Gaston, Montgomery.
 Harrison, George P., Opelika.
 †Harrison, W. Benton, Talladega.
 †Howze, Henry R., Birmingham.
 Hundley, Oscar R., Birmingham.
 Jones, George W., Montgomery.
 Mallory, H. S. D., Selma.
 Martin, Thomas W., Montgomery.
 McAlpine, John W., Mobile.
 O'Neal, Emmett (Montgomery), Florence.
 †Pelham, John, Montgomery.
 Percy, Walker, Birmingham.
 Pride, James H., Huntsville.
 Prince, Sydney Rhodes, Mobile.
 †Rainey, L. B., Gadsden.
 †Rudolph, Z. T., Birmingham.
 Rushton, Ray, Montgomery.
 Selheimer, Henry C., Birmingham.
 Shelby, David D., Huntsville.
 Sims, Henry Upson, Birmingham.
 Smith, A. G., Birmingham.
 Smith, Gregory L., Mobile.
 Speake, Paul, Huntsville.
 Stern, Phillip H., Montgomery.
 Stokely, J. T., Birmingham.

Stollenwerck, Frank, Jr., Montgomery.
 Tillman, John P., Birmingham.
 Walker, W. R., Athens.
 Weakley, Samuel D., Birmingham.
 Weatherly, James, Birmingham.
 White, Frank S., Birmingham.
 White, Frank S., Jr., Birmingham.
 Wood, Sterling A., Birmingham.

ARIZONA.

†Anderson, Le Roy, Prescott.
 Burks, Paul, Prescott.
 †Campbell, John H., Tucson.
 Clark, E. S., Prescott.
 Cox, Frank, Phoenix.
 †Doe, Edward M., Flagstaff.
 Ellinwood, Everett E., Bisbee.
 Hawkins, John J., Prescott.
 Herring, William, Tucson.
 †Ingles, Paul Renau, Phoenix.
 Kent, Edward, Phoenix.
 †Krook, Carl G., Kingman.
 †Ling, Reese M., Prescott.
 Morrison, Robert E., Prescott.
 Neale, George H., Bisbee.
 O'Connell, J. M., Bisbee.
 Ross, John Mason, Bisbee.
 †Smith, Frank O., Prescott.
 †Stilwell, Wm. H., Phoenix.

ARKANSAS.

Armistead, Henry M., Little Rock.
 Arnold, William H., Texarkana.
 †Bishop, J. W., Nashville.
 Blackwood, John W., Little Rock.
 Bradshaw, De E., Little Rock.
 Brizzolara, James, Fort Smith.
 †Brooks, Tom D., Russellville.
 †Buzbee, Thomas S., Little Rock.

† Elected by Executive Committee between meetings, 1911-12.

† Elected by Association at annual meeting, 1912.

†Campbell, S. D., Newport.
 Cantrell, Deaderick H., Little Rock
 Carmichael, J. H., Little Rock.
 Carter, Jacob M., Texarkana.
 Cockrill, Ashley, Little Rock.
 Cohn, Morris M., Little Rock.
 Coleman, Charles T., Little Rock.
 Coleman, W. F., Pine Bluff.
 Coston, J. T., Osceola.
 †Cotham, Calvin T., Hot Springs.
 Cunningham, C. A., Little Rock.
 Falconer, Wm. A., Fort Smith.
 Fitzhugh, Henry L., Fort Smith.
 Gaughan, Thomas J., Camden.
 Gautney, J. F., Jonesboro.
 †Hale, Harry G., Little Rock.
 Hawthorne, D. K., Jonesboro.
 †Head, James D., Texarkana.
 †Hemingway, Wilson E., Little Rock.
 †Henderson, G. D., Little Rock.
 Hill, Joseph M., Fort Smith.
 †Hogue, James E., Hot Springs.
 Hon, Daniel, Fort Smith.
 Huff, C. Floyd, Hot Springs.
 †Huddleston, M. P., Paragould.
 Johnson, B. S., Little Rock.
 Johnson, James V., Little Rock.
 Jones, Gustave, Newport.
 Kinsworthy, E. B., Little Rock.
 Kirby, Wm. F., Little Rock.
 †Lamb, N. F., Jonesboro.
 Lamb, W. J., Osceola.
 Lewis, W. M., Little Rock.
 Loughborough, J. F., Little Rock.
 †Lynn, Roscoe R., Little Rock.
 Mann, Richard M., Texarkana.
 Mann, Samuel H., Forrest City.
 Manning, Middleton J., Little Rock.
 Martin, W. H., Hot Springs.
 Mehaffy, T. M., Little Rock.
 Miles, Lovick P., Fort Smith.
 †Miles, Vincent M., Fort Smith.
 Moore, Henry, Texarkana.
 Moore, John M., Little Rock.
 Moose, William L., Morrilton.
 †McCaleb, J. B., Batesville.
 †McClintock, J. M., Texarkana.
 McDonough, James B., Fort Smith.
 †McHaney, Edgar L., Little Rock.
 McKenzie, H. B., Prescott.
 McBae, Thomas C., Prescott.
 †Osborne, T. S., Fort Smith.
 Pace, Frank, Little Rock.

†Pace, Troy, Harrison.
 †Pettit, C. E., Stuttgart.
 †Pope, Gustavus G., Texarkana.
 Quinn, Frank S., Texarkana.
 Ratcliffe, Cummins, Little Rock.
 Ratcliffe, William C., Little Rock.
 Read, James F., Fort Smith.
 †Rector, Elias W., Hot Springs.
 †Rector, Wm. H., Fort Smith.
 Riddick, W. G., Little Rock.
 Robinson, Jos. T., Lonoke.
 Rodgers, W. C., Nashville.
 †Rogers, Robert L., Little Rock.
 Rose, George B., Little Rock.
 Rose, U. M., Little Rock.
 †Rowell, A. H., Pine Bluff.
 †Sain, David B., Nashville.
 †Simms, John F., Texarkana.
 Smith, Frank, Marion.
 Smith, William B., Little Rock.
 Southmayd, L. H., Van Buren.
 Stayton, Joseph M., Newport.
 †Steel, Will, Texarkana.
 Terry, Walter J., Little Rock.
 Tompkins, William V., Prescott.
 Trieber, Jacob, Little Rock.
 Turner, Jesse, Van Buren.
 †Turner, T. A., Jonesboro.
 †Vaughan, George, Little Rock.
 †Wall, Edward B., Fayetteville.
 Warner, Charles E., Fort Smith.
 Webber, George, Texarkana.
 Webber, T. E., Texarkana.
 †Whipple, Durand, Little Rock.
 Wiley, Robert E., Little Rock.
 Woods, Samuel B., Jr., Fort Smith.
 Youmans, Frank A., Fort Smith.

CALIFORNIA.

Allen, E. Lee, Los Angeles.
 Anderson, J. A., Los Angeles.
 Barclay, Henry Augustus, Los Angeles.
 Barry, Edmund D., Los Angeles.
 †Becker, Tracy C., Los Angeles.
 †Boone, Linden L., San Diego.
 Bowen, William A., Los Angeles.
 Briggs, Charles G., San Diego.
 Britt, E. W., Los Angeles.
 Call, Joseph H., Los Angeles.
 †Camp, Edgar W., Los Angeles.
 Campbell, Ira A., San Francisco.
 Carpenter, Samuel L., Los Angeles.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Chandler, Jefferson, Los Angeles.
 Chickering, W. H., San Francisco.
 Corbet, Burke, San Francisco.
 Craig, Gavin W., Los Angeles.
 Craig, William T., Los Angeles.
 Daney, Eugene, San Diego.
 †Denman, William, San Francisco.
 Denis, George J., Los Angeles.
 Dockweiler, Isidore B., Los Angeles.
 Dorr, Charles W. (Seattle, Wash.), San Francisco.
 Dunne, Peter F., San Francisco.
 Eickhoff, Henry, San Francisco.
 Fuller, George, Vista.
 Gibson, James A., Los Angeles.
 Graff, M. L., Los Angeles.
 Gray, Roscoe Spaulding, Oakland.
 †Gregory, Warren, San Francisco.
 Helm, Lynn, Los Angeles.
 Herrin, William J., San Francisco.
 Huberich, Chas. Henry, San Francisco.
 Hunsaker, William J., Los Angeles.
 †Jensen, Constan, Los Angeles.
 Job, Thomas C., Los Angeles.
 †Jutten, L. W., Los Angeles.
 Kelby, James E., Los Angeles.
 Kemp, John W., Los Angeles.
 Lee, Bradner W., Los Angeles.
 Leeds, Walter R., Los Angeles.
 Lewis, T. L., San Diego.
 Lindley, Curtis H., San Francisco.
 Loewenthal, Max, Los Angeles.
 Meserve, Edwin A., Los Angeles.
 Milliken, E. E., Los Angeles.
 †Monnette, Orra E., Los Angeles.
 Monroe, Charles, Los Angeles.
 Morton, William O., Los Angeles.
 Mueller, Oscar C., Los Angeles.
 McKinley, J. W., Los Angeles.
 Newlin, Gurney E., Los Angeles.
 O'Neill, Grosvenor P., Los Angeles.
 †Parker, Force, Los Angeles.
 Porter, Frank M., Los Angeles.
 Porter, Valentine Mott, Santa Barbara.
 †Rode, Walter E., Oakland.
 †Schoonover, Albert, San Diego.
 Scott, Joseph, Los Angeles.
 Smith, Sam. Ferry, San Diego.
 †Sprigg, Patterson, San Diego.
 Storrs, Henry E., Los Angeles.
 Thayer, Rufus C., San Francisco.
 Thomas, William H., Santa Ana.

Titus, H. L., San Diego.
 Trippet, Oscar A., Los Angeles.
 Van Dyke, Henry S., Los Angeles.
 †Ward, M. L., San Diego.
 Woodward, Frederic C., Stanford Univ.
 Works, John D., Los Angeles.

CHINA.

Rankin, Charles W., Soochow.
 Thayer, Rufus H., Shanghai.

COLORADO.

Adams, Alva B., Pueblo.
 Allen, George W., Denver.
 Annis, Frank J., Fort Collins.
 Babb, Henry B., Denver.
 Bailey, Morton S., Denver.
 Bartels, Gustave C., Denver.
 Beardale, Arthur L., Glenwood Springs.
 Bell, Joseph C., Trinidad.
 Bennett, Edmon G., Denver.
 Blood, James H., Denver.
 Bonyng, Robert W., Denver.
 Bouck, Francis E., Leadville.
 Brock, Charles E., Denver.
 Brooks, Franklin E., Colorado Springs.
 Brown, James H., Denver.
 Bryant, William H., Denver.
 Campbell, John, Denver.
 Campbell, Norman M., Colorado Springs.
 Cavender, Charles, Leadville.
 Chittenden, Granville L., Denver.
 †Clark, Frederic Wilson, Trinidad.
 Collins, O. E., Colorado Springs.
 Costigan, Edward P., Denver.
 Curtis, Leonard E., Colorado Springs.
 Cuthbert, Lucius M., Denver.
 Davis, Harry C., Denver.
 Davis, Walter W., Leadville.
 Dawson, Clyde C., Denver.
 Devine, Thomas H., Pueblo.
 Dines, Orville L., Denver.
 Dines, Tyson S., Denver.
 Dixon, John R., Denver.
 Dorsey, Clayton C., Denver.
 Dubbs, Henry A., Denver.
 Dunklee, George F., Denver.
 Ellis, Daniel B., Denver.
 Ewing, John A., Leadville.
 Fleming, John D., Boulder.
 Fleming, Russell W., Fort Collins.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Frost, Hildreth, Colorado Springs.
 †Fuller, Pierpont, Denver.
 Gabbert, William H., Denver.
 Gabriel, John H., Denver.
 Gandy, Newton S., Colorado Springs.
 Gast, Robert S., Pueblo.
 Goddard, Luther M., Denver.
 Goss, Melvin C., Boulder.
 †Goudy, Frank C., Denver.
 Gove, Frank E., Denver.
 Gregg, Frank E., Denver.
 Grosier, Joshua, Denver.
 Gunter, Julius C., Denver.
 Haggott, W. A., Denver.
 †Haines, Charles H., Denver.
 Hall, Henry C., Colorado Springs.
 Hallett, Moses, Denver.
 Hamlin, Clarence C., Colorado Springs.
 Harrison, William B., Denver.
 †Hartenstein, G. K., Buena Vista.
 Hartman, William L., Pueblo.
 Haynes, H. N., Greeley.
 Hayt, Charles D., Denver.
 Herrington, Cass E., Denver.
 Herrington, Fred, Denver.
 Hervey, Henry J., Denver.
 Hodges, George L., Denver.
 Hodges, William V., Denver.
 †Holme, Peter H., Denver.
 Hood, Thomas H., Denver.
 Kelly, Harry E., Denver.
 Killian, James R., Denver.
 King, Alfred E., Delta.
 Lee, Paul W., Fort Collins.
 Lewis, Robert E., Denver.
 Lindale, Henry A., Denver.
 Lunt, Horace G., Colorado Springs.
 Manly, George C., Denver.
 Maxwell, John M., Denver.
 May, Henry F., Denver.
 †Melville, Irving B., Denver.
 Milliken, John D., Denver.
 Morgan, William B., Trinidad.
 McAllister, Henry, Jr., Denver.
 †McCloud, Richard, Durango.
 McCreery, James W., Greeley.
 McDonough, Frank, Sr., Denver.
 McKnight, Richard, Denver.
 †McLean, Hugh, Denver.
 Northcutt, Jesse G., Trinidad.
 O'Donnell, Thomas J., Denver.
 Preston, J. W., Pueblo.

Reddin, John H., Denver.
 Reed, Albert A., Boulder.
 Regennitter, Erwin L., Idaho Springs.
 Rogers, Henry T., Denver.
 Rogers, Platt, Denver.
 Sabin, Fred A., La Junta.
 †Schultz, John H., Denver.
 Shafroth, John F., Denver.
 Sherman, Sterling S., Montrose.
 Smith, John R., Denver.
 Stevenson, Archie M., Denver.
 Stow, Fred W., Fort Collins.
 Symes, J. Foster, Denver.
 Tears, Daniel W., Denver.
 Thomas, Charles S., Denver.
 Twitchell, LaFayette, Denver.
 Valle, Joel F., Denver.
 VanCise, Edwin, Denver.
 Vates, William B., Pueblo.
 †Vidal, Henry C., Pueblo.
 Warner, Stanley Clark, Denver.
 Waterman, Charles W., Denver.
 White, S. Harrison, Denver.
 Whitted, Elmer E., Denver.
 Wilkin, Charles A., Canon City.
 Yeaman, Caldwell, Denver.

CONNECTICUT.

Alling, Arnon A., New Haven.
 Alling, John W., New Haven.
 Andrews, James P., Hartford.
 Arvine, E. P., New Haven.
 †Asher, Harry W., New Haven.
 Baldwin, Alfred C., Derby.
 Baldwin, Simeon E., New Haven.
 Beach, John K., New Haven.
 Beardale, Morris B., Bridgeport.
 Beers, George E., New Haven.
 Bill, Albert C., Hartford.
 Briscoe, Charles H., Hartford.
 Bronson, Nathaniel R., Waterbury.
 Brosmith, William, Hartford.
 †Burpee, Lucien Francis, Waterbury.
 Case, Birdsey E., Hartford.
 Chase, Warren D., Hartford.
 Cleaveland, Livingston W., New Haven.
 Conant, George A., Hartford.
 Crane, Albert (New York, N. Y.),
 Stamford.
 Culver, M. Eugene, Middletown.
 Cummings, Homer S., Stamford.
 Davenport, Daniel, Bridgeport.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Davis, Samuel A., Danbury.
 Day, Harry G., New Haven.
 Edgerton, John W., New Haven.
 Fay, Frank S., Meriden.
 Fitzgerald, David E., New Haven.
 Gager, Edwin B., Derby.
 Greene, Gardiner, Norwich.
 Haines, Frank D., Middletown.
 Halliday, Wilbur T., Hartford.
 Harriman, Edward Avery, New Haven.
 Herman, Samuel A., Winsted.
 Hill, George E., Bridgeport.
 †Hull, Charles Hadlai, New London.
 Hull, Hadlai A., New London.
 Hyde, William W., Hartford.
 Ives, J. Moss, Danbury.
 Joslyn, Charles M., Hartford.
 Kellogg, John P., Waterbury.
 Light, John H., South Norwalk.
 Loomis, Seymour C., New Haven.
 †Lynch, Bernard E., New Haven.
 †Makepeace, Walter D., Waterbury.
 Maltbie, Theodore M., Hartford.
 Mansfield, Burton, New Haven.
 †Marsh, Samuel John, Waterbury.
 Matthewson, Albert McClellan, New Haven.
 McGuire, Frank L., New London.
 Newton, Henry G., New Haven.
 †O'Brien, Patrick T., Meriden.
 Parmelee, Henry F., New Haven.
 Peck, Epaphroditus, Bristol.
 Felton, Charles A., Clinton.
 †Parker, Francis H., Hartford.
 †Peasley, Fred M., Cheshire.
 Perkins, Arthur, Hartford.
 Perry, Fred L., New Haven.
 Phelps, Charles, Rockville.
 Pierce, Wilson H., Waterbury.
 Pond, Philip, New Haven.
 Robbins, Edward D., New Haven.
 Rogers, Edward H., New Haven.
 Rogers, Henry Wade, New Haven.
 Russell, Talcott H., New Haven.
 Scott, Howard B., Danbury.
 Searis, Charles E., Putnam.
 Seymour, Morris W., Bridgeport.
 †Sherman, Charles P., New Haven.
 Stanton, Lewis E., Hartford.
 Taylor, Frederick C., Stamford.
 Thomas, Edwin S., New Haven.
 Townshend, Henry H., New Haven.

Tuttle, J. Birney, New Haven.
 Tuttle, Jos. P., Hartford.
 Walsh, Robert Jay, Greenwich.
 Warner, Donald T., Salisbury.
 Watrous, George D., New Haven.
 Webb, Howard C., New Haven.
 Webb, James H., New Haven.
 Wheeler, James E., New Haven.
 White, Henry C., New Haven.
 Williams, Frederic M., New Milford.
 Williams, William H., Derby.
 Woodruff, George M., Litchfield.
 Woolsey, Theo. S., New Haven.
 Wright, William A., New Haven.
 Wurts, John, New Haven.

CUBA

Lamar, Lucius Q. C., Havana.

DELAWARE.

†Baynard, Samuel H., Jr., Wilmington.
 Bradford, Edward G., Wilmington.
 †Burchenal, Caleb E., Wilmington.
 †Conrad, Henry C., Georgetown.
 Garland, Hugh A., Wilmington.
 Gray, George, Wilmington.
 Hilles, William S., Wilmington.
 †Hoffecker, Francis H., Wilmington.
 Laffey, John P., Wilmington.
 †Marvel, David T., Wilmington.
 †Marvel, Josiah, Wilmington.
 Nields, Benjamin, Wilmington.
 Nields, John P., Wilmington.
 †Richards, Robert H., Wilmington.
 †Ridgely, Henry, Dover.
 Saulsbury, Willard, Wilmington.
 Ward, Herbert H., Wilmington.
 †Wolcott, Josiah O., Wilmington.

DISTRICT OF COLUMBIA.

Abert, William Stone, Washington.
 Adkins, Jesse C., Washington.
 Alexander, Thomson H., Washington.
 Ambrose, William C., Washington.
 Anderson, Thomas H., Washington.
 †Ansell, Samuel T., Washington.
 Bacon, Levi Seward, Washington.
 †Bailey, Lorenzo Alton, Washington.
 Baker, Daniel W., Washington.
 Baker, J. Newton, Washington.
 Balderston, Walter C., Washington.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- Ballinger, Richard A., Washington.
 Barnard, Ralph P., Washington.
 Berry, Walter V. R., Washington.
 †Birney, Arthur A., Washington.
 Blair, Henry P., Washington.
 Blair, John S., Washington.
 Bond, Samuel R., Washington.
 Bradford, Ernest W., Washington.
 †Bradley, Thomas C., Washington.
 †Brickenstein, John H., Washington.
 Britton, Alexander, Washington.
 Brock, Charles E., Washington.
 Brown, Chapin, Washington.
 Browne, Aldis B., Washington.
 Browne, Arthur S., Washington.
 †Capers, John G., Washington.
 Church, Joseph B., Washington.
 Church, Melville, Washington.
 Clephane, Walter C., Washington.
 Colbert, Michael J., Washington.
 Cooke, Levi, Washington.
 Crowder, Enoch H., Washington.
 †Cushman, A. V., Washington.
 †Dahlgren, John B., Washington.
 Daish, John B., Washington.
 Davis, Henry E., Washington.
 †Dean, Chas. Ray, Washington.
 †DeKnight, Clarence W., Washington.
 De Lacy, William H., Washington.
 †Dodge, Horace A., Washington.
 Dodge, William W., Washington.
 Donaldson, R. Golden, Washington.
 Doolittle, H. P. (San Francisco, Cal.)
 Washington.
 Douglas, Charles A., Washington.
 Dowell, Arthur E., Washington.
 Dowell, Julian C., Washington.
 Dunlop, G. Thomas, Washington.
 Edmonston, William E., Washington.
 Edson, Joseph R., Washington.
 Esterline, Blackburn, Washington.
 Fleming, Frederick A., Washington.
 Fisher, Robert J., Washington.
 Flannery, John Spalding, Washington.
 Fletcher, Duncan U., Washington.
 Foster, Charles E., Washington.
 Fowler, James A., Washington.
 †Gatley, H. Prescott, Washington.
 Glasie, Henry Haywood, Washington.
 †Gordon, Peyton, Washington.
 Greeley, Arthur P., Washington.
 Gregory, Charles Noble, Washington.
 Hackett, Chauncey, Washington.
 Hamilton, George Earnest, Washington.
 Harlow, Leo P., Washington.
 †Harr, William R., Washington.
 Hayden, James H., Washington.
 Henderson, William G., Washington.
 †Hillyer, Charles S., Washington.
 †Hitt, Isaac Reynolds, Washington.
 Hitz, William, Washington.
 †Hodges, Vernon E., Washington.
 Hogan, Frank J., Washington.
 Howard, George H., Washington.
 Jeffries, L. E., Washington.
 †Johnson, Guy H., Washington.
 †Jones, Henry Craig, Washington.
 Kappler, Charles J., Washington.
 Kenyon, J. Miller, Washington.
 King, George A., Washington.
 King, William B., Washington.
 †Knight, Hervey S., Washington.
 Lancaster, Charles C., Washington.
 Larner, John B., Washington.
 Laskey, J. E., Washington.
 Lawler, Oscar, Washington.
 Leckie, A. E. L., Washington.
 †Lewis, Fulton, Washington.
 Loving, Lucas P., Washington.
 Maddox, Samuel, Washington.
 †Mason, Eugene G., Washington.
 Michener, L. T., Washington.
 Millan, William W., Washington.
 Minor, Benjamin S., Washington.
 Mohun, Barry, Washington.
 †Moore, Langdon, Washington.
 McCalmont, Edward S., Washington.
 McGill, J. Nota, Washington.
 McKenney, Frederic D., Washington.
 McLanahan, George K., Washington.
 McMahon, John J., Washington.
 †Newcomb, H. T., Washington.
 †Norris, James L., Washington.
 Page, Thomas Nelson, Washington.
 †Pattison, Allen S., Washington.
 Penfield, Walter S., Washington.
 Perry, R. Rose, Jr., Washington.
 Ralston, Jackson H., Washington.
 †Ritter, Frederick W., Jr., Washington.
 Rogers, Walter F., Washington.
 Selden, John, Washington.
 Seymour, Henry A., Washington.
 Sherley, Swager, Washington.
 Siddons, Frederick Lincoln, Washington.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Smith, John Lewis, Washington.
 Smith, Luther R., Washington.
 Snow, Alpheus H., Washington.
 ‡Sobon, Henry W., Washington.
 Spalding, E. W., Washington.
 Spear, Ellis, Washington.
 Sturtevant, Charles L., Washington.
 Sullivan, William C., Washington.
 Taylor, Hannis, Washington.
 Thom, Alfred P., Washington.
 Thom, Corcoran, Washington.
 Thomas, Edward H., Washington.
 Thompson, Arthur R., Washington.
 Thurston, John M., Washington.
 Tucker, Charles Cowles, Washington.
 Tyler, Frederick S., Washington.
 Van Devanter, Willis, Washington.
 Van Orsdel, Josiah A., Washington.
 Walker, Philip, Washington.
 †Watson, James A., Washington.
 †Watson, Robert, Washington.
 Wheatley, H. Winship, Washington.
 †Whittlesey, Geo. P., Washington.
 Wilkinson, Ernest, Washington.
 †Williamson, Chas. J., Jr., Washington.
 Williamson, W. Preston, Washington.
 †Wilson, Andrew, Washington.
 Wilson, Clarence R., Washington.
 Wilson, Nathaniel, Washington.
 Yerkes, John W., Washington.

ENGLAND.

McCarter, Edw'd B. (7 New Square,
 Lincoln's Inn), London, E. C.

FLORIDA.

Adams, Charles S., Jacksonville.
 Adams, Thomas B., Jacksonville, Fla.
 Anderson, Robert L., Ocala.
 Avery, John C., Pensacola.
 Artell, Ezra P., Jacksonville.
 Baker, Robert A., Jacksonville.
 Baker, William H., Jacksonville.
 Baya, Harry P., Tampa.
 Bedell, George C., Jacksonville.
 Bibbee, Horatio, Jacksonville.
 Blount, William A., Pensacola.
 Bostwick, William M., Jr., Jacksonville.
 Bryan, Nathan P., Jacksonville.
 Buckman, Henry H., Jacksonville.
 Butler, Fred W., Jacksonville.

Campbell, Angus G., DeFuniak Springs.
 Carter, William A., Tampa.
 †Cockrell, Alston, Jacksonville.
 Cockrell, A. W., Jr., Jacksonville.
 †Cubberly, Fred, Gainesville.
 Davis, Robert E., Gainesville.
 Dodge, John W., Jacksonville.
 Doggett, John L., Jacksonville.
 Doig, D. H., Jacksonville.
 Duval, Louis W., Ocala.
 †Fee, Fred, Fort Pierce.
 Fleming, Francis P., Jacksonville.
 Frazier, J. W., Tampa.
 Gibbons, Cromwell, Jacksonville.
 Gibbs, George C., Jacksonville.
 Gillespie, J. Hamilton, Sarasota.
 Glen, James F., Tampa.
 Gordon, Horace O., Tampa.
 Gunby, Edward R., Tampa.
 Hampton, Hilton S., Tampa.
 Hampton, William Wade, Gainesville.
 Hartridge, John E., Jacksonville.
 †Harwick, Wm. H., Jacksonville.
 Hilburn, Samuel J., Palatka.
 Hodges, William C., Tallahassee.
 Hudson, Frederick M., Miami.
 Hunter, William, Tampa.
 Johnson, Andrew, Kissimmee.
 Kay, William E., Jacksonville.
 Knight, Peter O., Tampa.
 †Laird, H. S., Milton.
 L'Engle, E. J., Jacksonville.
 Locke, James W., Jacksonville.
 Long, Augustus V., Starke.
 †Long, Martin Henry, Jacksonville.
 †Lucas, Thomas Edward, Tampa.
 Mabry, Giddings E., Tampa.
 Martin, George C., Brooksville.
 Massey, Louis C., Orlando.
 Maxwell, Evelyn C., Pensacola.
 McGarry, Thomas F., Jacksonville.
 †McKay, Kenneth I., Tampa.
 McMullen, Donald C., Tampa.
 †Odlin, Arthur F., Arcadia.
 Odom, Patrick H., Jacksonville.
 Olliphant, Horace K., Bartow.
 †Pelot, Charles E., Jacksonville.
 Phillips, Henry B., Jacksonville.
 Price, William H., Marianna.
 Reynolds, John Chandler, Jacksonville.
 Rinehart, C. D., Jacksonville.
 Robbins, George M., Titusville.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

{Semple, Edward M., Key West.
 {Shackleford, T. M., Jr., Tampa.
 {Sheppard, Wm. B., Pensacola.
 Simonton, F. M., Tampa.
 Sparkman, S. M., Tampa.
 Sullivan, J. J., Pensacola.
 Taylor, H. H., Key West.
 Toomer, W. M., Jacksonville.
 Vans Agnew, P. A., Kismimmee.
 Wall, John P., Tampa.
 Welch, E. C., Cottondale.
 West, Thomas Franklin, Milton.
 Wilson, Cephas L., Marianna.
 Wilson, Emmett, Pensacola.

FRANCE.

Harper, Donald, Paris.

GEORGIA.

Ackerman, Alexander, Macon.
 Adams, Samuel B., Savannah.
 Arnold, Reuben R., Atlanta.
 {Barrett, Wm. H., Augusta.
 Bartlett, Charles L., Macon.
 Branch, Lee W., Quitman.
 Brandon, Morris, Atlanta.
 Callaway, Frank E., Atlanta.
 Cann, J. Ferris, Savannah.
 Charlton, Walter G., Savannah.
 Clay, William Law, Savannah.
 {Cobb, Andrew J., Athens.
 Crovatt, A. J., Brunswick.
 {Crum, D. A. R., Cordele.
 Cumming, Joseph B., Augusta.
 Cunningham, Henry C., Savannah.
 Cunningham, T. M., Jr., Savannah.
 Daley, A. F., Wrightsville.
 Davis, Archibald H., Atlanta.
 Dean, Joel Edward, Rome.
 Donaldson, John E., Bainbridge.
 Doyal, Paul Henderson, Rome.
 Fulwood, O. W., Tifton.
 {Gazan, Simon N., Savannah.
 Gignilliat, William L., Savannah.
 Goetchius, Henry R., Columbus.
 Gordon, William W., Jr., Savannah.
 Hammond, Theodore A., Atlanta.
 Hammond, William R., Atlanta.
 Hawes, T. S., Bainbridge.
 Hitch, Robert M., Savannah.
 King, Alexander C., Atlanta.
 Kontz, Ernest C., Atlanta.

Lamar, Joseph R. (Washington, D. C.),
 Augusta.
 Lawton, Alexander R., Savannah.
 Leaken, William R., Savannah.
 Luke, Roscoe, Thomasville.
 Mackall, William W., Savannah.
 Maddox, George Edward, Rome.
 Meldrim, Peter W., Savannah.
 Merrill, Joe. Hansell, Thomasville.
 Minie, Abram, Savannah.
 McAlpin, Henry, Savannah.
 McWhorter, Hamilton, Athens.
 O'Byrne, M. A., Savannah.
 Owens, George W., Savannah.
 Park, Orville A., Macon.
 {Randolph, Hollins N., Atlanta.
 Seabrook, Paul E. (Savannah), Pineora.
 Smith, Alexander W., Sr., Atlanta.
 Smith, Burton, Atlanta.
 {Smith, O. M., Valdosta.
 Smith, Victor Lamar, Atlanta.
 Speer, Emory, Macon (Mt. Airy).
 Strickland, John J., Athens.
 Tye, John L., Atlanta.
 {Tyson, Charles M., Darien.
 {Wade, Peyton L., Dublin.
 Watkins, Edgar, Atlanta.
 Wimblish, William A., Atlanta.
 Wright, Barry, Rome.

HAWAII TERRITORY.

Anderson, Robbins B., Honolulu.
 Carlsmith, Carl Schurz, Hilo.
 Case, Daniel H., Wailuku.
 Castle, Alfred L., Honolulu.
 Castle, William R., Honolulu.
 Dickey, Lyle A., Lihue.
 Greenwell, W. A., Honolulu.
 {Hemenway, Charles R., Honolulu.
 Marx, Benj. L., Honolulu.
 Mott-Smith, Ernest A., Honolulu.
 {Parsons, Charles F., Hilo.
 Smith, William O., Honolulu.
 Thayer, Wade Warren, Honolulu.
 Watson, Edward M., Honolulu.
 Withington, David L., Honolulu.

IDAHO.

Allshie, James F., Boise.
 Babb, James E., Lewiston.
 Beale, Charles W., Wallace.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Borah, William E. (Washington, D. C.),
Boise.

Bowen, Arthur M., Twin Falls.

Butler, Fred E., Lewiston.

Cavanah, Charles C., Boise.

Cox, Eugene C., Lewiston.

Davidson, William B., Boise.

Dietrich, Frank S., Boise.

†French, Burton L., Moscow.

†Gough, A. B., Montpelier.

Haga, Oliver O., Boise.

Hawley, James H., Boise.

Hawley, Jess B., Boise.

Hays, Samuel H., Boise.

Heyburn, Weldon B. (Washington,
D. C.), Wallace.

Johnson, Richard H., Boise.

Lyon, Luther M., Payette.

MacLane, John F., Boise.

†Paine, Karl, Boise.

Pence, Joseph T., Boise.

Perky, Kirtland L., Boise.

†Potts, C. H., Coeur d'Alene.

Richards, James H., Boise.

Ruick, Norman M., Boise.

Wood, Fremont, Boise.

Woods, William W., Wallace.

Wyman, Frank T., Boise.

Wyman, Harry C., Boise.

ILLINOIS.

Abbey, Charles P., Chicago.

Adams, Elmer H., Chicago.

†Abern, Clinton J., Dwight.

Alden, W. T., Chicago.

Allen, Charles L., Chicago.

AplMadoc, W. Tudor, Chicago.

†Appell, Albert J. W., Chicago.

†Arnold, Victor P., Chicago.

†Ashcraft, Raymond, Chicago.

Ayers, George D., Chicago.

Austrian, Alfred S., Chicago.

Baldwin, Henry R., Chicago.

Baldwin, Jesse A., Chicago.

Bancroft, Edgar A., Chicago.

Bangs, Frederick A., Chicago.

†Barass, Bernard P., Chicago.

†Barker, Burt Brown, Chicago.

Barnes, Albert C., Chicago.

Barnett, Otto R., Chicago.

Bartley, Charles Earle, Chicago.

Barton, George P., Chicago.

Beach, Myron H., Chicago.

Beale, William G., Chicago.

†Becker, Benjamin V., Chicago.

†Behan, Louis J., Chicago.

†Bell, Marcus L., Chicago.

Belt, William O., Chicago.

Bentley, Cyrus, Chicago.

†Berlet, Robert E., Chicago.

Billings, Charles L., Chicago.

†Bishop, James Franklin, Chicago.

Blake, Freeman E., Chicago.

Boys, William H., Streator.

†Bradley, Thomas E. D., Chicago.

†Breeding, Ben N., Chicago.

Brown, Charles A., Chicago.

Brown, Edward Osgood, Chicago.

†Brown, Fred A., Chicago.

†Brown, John B., Monmouth.

Brown, Paul, Chicago.

Brown, Taylor E., Chicago.

Brundage, Edward J., Chicago.

Buckingham, George T., Chicago.

†Bulkley, Almon W., Chicago.

†Bundy, Wm. F., Centralia.

†Burnham, Frederic, Chicago.

Burnham, Telford, Chicago.

Burroughs, Benjamin R., Edwardsville.

Burry, William, Chicago.

†Burton, Charles S., Chicago.

†Busby, Leonard A., Chicago.

Butler, Rush C., Chicago.

Byrnes, Daniel, Chicago.

Calhoun, William J., Chicago.

Capen, Charles L., Bloomington.

Carpenter, George A., Chicago.

Carter, Henry W., Chicago.

Carter, Orrin N., Chicago.

Cary, Robert J., Chicago.

†Case, Charles Center, Jr., Chicago.

†Caasels, Edwin H., Chicago.

†Cavette, Scott Osten, Chicago.

Chancellor, Justus, Chicago.

Chandler, Joseph H., Chicago.

Cheever, Dwight B., Chicago.

†Childs, Frank Hall, Chicago.

†Chipman, George E., Chicago.

Chytraus, Axel, Chicago.

†Cleveland, Chester E., Chicago.

†Comerford, Frank, Chicago.

†Cooper, Joseph R. W., Chicago.

Cook, Wells M., Chicago.

Costigan, George P., Jr., Chicago.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Cowen, Israel, Chicago.
 Cox, Arthur M., Chicago.
 †Crafts, Clayton Edward, Chicago.
 †Cressy, Morton S., Chicago.
 †Crews, Ralph, Chicago.
 †Crow, George A., E. St. Louis.
 †Culver, Morton T., Chicago.
 †Cummins, James S., Chicago.
 Curran, William R., Pekin.
 Custer, Jacob R., Chicago.
 Cutting, Charles S., Chicago.
 †D'Ancona, Edward N., Chicago.
 Daniels, Francis B., Chicago.
 David, Joseph B., Chicago.
 Davis, Brode B., Chicago.
 †Davis, J. McCan, Springfield.
 Dawes, Chester M., Chicago.
 †Decker, Edward H., Urbana.
 Defrees, Joseph H., Chicago.
 Deneen, Charles S. (Springfield, Ill.), Chicago.
 Dent, Thomas, Chicago.
 Dickinson, J. R., Chicago.
 Dillard, F. C., Chicago.
 †Dillon, William, Chicago.
 †Doocy, Edward, Pittsfield.
 Douglass, George L., Chicago.
 Dunlap, Robert, Chicago.
 Dynes, O. W., Chicago.
 Dyrenforth, Philip C., Chicago.
 Dyrenforth, William H., Chicago.
 †Early, Albert D., Rockford.
 Eastman, Albert N., Chicago.
 Eastman, Sidney C., Chicago.
 Eaton, Marquis, Chicago.
 Eberhardt, Max, Chicago.
 Eckhardt, Percy B., Chicago.
 †Eddy, Arthur J., Chicago.
 †Ehle, Louis C., Chicago.
 Elder, Charles B., Chicago.
 †Elliott, Robert L., Chicago.
 †Elliott, Wm. S., Chicago.
 Elting, Victor, Chicago.
 English, Lee F., Chicago.
 †Ettelson, Samuel A., Chicago.
 Evans, Lynden, Chicago.
 †Everett, Edward W., Chicago.
 †Faisler, John, Sycamore.
 †Farwell, John C., Chicago.
 †Felsenthal, Eli B., Chicago.
 †Fergus, Robert C., Chicago.
 †Fernald, Gustavus S., Chicago.

Field, Heman H., Chicago.
 Fisher, Geo. P., Jr., Chicago.
 †Fisk, R. W., Ridgefarm.
 †Fletcher, Robert V., Chicago.
 †Foell, Charles M., Chicago.
 Follansbee, George A., Chicago.
 †Follansbee, Mitchell D., Chicago.
 †Foltz, Ira W., Chicago.
 †Foreman, Milton J., Chicago.
 †Foster, Stephen A., Chicago.
 †Frank, Robert J., Chicago.
 Freund, Ernst, Chicago.
 Frost, E. Allen, Chicago.
 Fullerton, William D., Ottawa.
 Furness, William Eliot, Chicago.
 †Fyffe, Colin C. H., Chicago.
 †Gallagher, Michael F., Chicago.
 †Gallery, Daniel V., Chicago.
 Gardner, C. P., Chicago.
 Gartside, John M., Chicago.
 Gibbons, John, Chicago.
 †Goodyear, A. F., Chicago.
 †Graves, Frank P., Chicago.
 Greeley, Louis M., Chicago.
 Green, Frederick, Urbana.
 Greenacre, Isaiah T., Chicago.
 Gregory, Stephen S., Chicago.
 Gresham, Otto, Chicago.
 Gridley, Martin M., Chicago.
 Grosscup, Peter S., Chicago.
 †Guerin, M. Henry, Chicago.
 †Gurley, Wm. W., Chicago.
 Hagan, Henry M., Chicago.
 †Halbert, Wm. U., Belleville.
 Hall, James Parker, Chicago.
 Hamill, Charles H., Chicago.
 Hamlin, Frank, Chicago.
 Harding, Charles F., Chicago.
 Harker, Oliver A., Champaign.
 †Harlan, John Maynard, Chicago.
 †Harnwell, Frederick W., Chicago.
 †Harpham, Edwin L., Chicago.
 †Harrold, James P., Chicago.
 Healy, John J., Chicago.
 Hebard, Frederic S., Chicago.
 Herrick, John J., Chicago.
 Hicks, James L., Monticello.
 †Higbee, Harry, Pittsfield.
 †Higinbotham, H. M., Chicago.
 Hill, John W., Chicago.
 Hill, Lylander, Chicago.
 †Hitt, Rector C., Ottawa.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- †Hoag, Parker H., Chicago.
 †Hogan, Daniel, Jr., Danville.
 Holdom, Jesse, Chicago.
 †Hoyne, Thomas M., Chicago.
 Humburg, Andrew P., Chicago.
 †Hummeland, Andrew, Chicago.
 Hunter, William R., Kankakee.
 Hurd, Harry B., Chicago.
 Hutchins, James C., Chicago.
 Hyde, Charles C., Chicago.
 Hyde, James W., Chicago.
 Hyzer, E. M., Chicago.
 †Irving, S. C., Chicago.
 Irwin, Clinton F., Elgin.
 Ives, Morse, Chicago.
 †Jackson, John L., Chicago.
 †Jackson, Samuel Spencer, Chicago.
 Jennings, Everett, Chicago.
 Jochem, George J., Peoria.
 †Jones, W. Clyde, Chicago.
 Judah, Noble B., Chicago.
 Junkin, Francis T. A., Chicago.
 †Kannally, Michael V., Chicago.
 †Kaplan, Nathan D., Chicago.
 Karcher, George H., Chicago.
 †Keehn, Roy D., Chicago.
 †Kehoe, John E., Chicago.
 †Kelly, James J., Chicago.
 †Kelly, Joseph I., Chicago.
 Kelly, George Thomas, Chicago.
 Kenyon, William S. (Washington, D. C.), Chicago.
 Kerr, Robert J., Chicago.
 †Kersten, George, Chicago.
 Kies, William S., Chicago.
 †King, Samuel B., Chicago.
 †Kline, Julius Reynolds, Chicago.
 †Kocourek, Albert, Chicago.
 †Koepke, Charles A., Chicago.
 Kramer, Edward C., East St. Louis.
 Kriete, Frank L., Chicago.
 Kriete, George H., Chicago.
 Kretsinger, George W., Chicago.
 †Kuebler, George J., Chicago.
 †Lackey, George W., Lawrenceville.
 Lackner, Francis, Chicago.
 Lane, Wallace R., Chicago.
 Lathrop, Gardiner, Chicago.
 †Latham, Carl R., Chicago.
 Lawrence, George A., Galesburg.
 †Leach, Thomas A., Chicago.
 †Lebosky, Jacob O., Chicago.
 †Lee, Bernard L., Chicago.
 Lee, Blewett, Chicago.
 Lee, Edward T., Chicago.
 †Levin, Jacob, Chicago.
 Levinson, Salmon O., Chicago.
 Lewis, J. Hamilton, Chicago.
 †Lindley, Frank, Danville.
 †Lindley, Walter C., Danville.
 Linthicum, Charles C., Chicago.
 Loesch, Frank J., Chicago.
 Lord, Frank E., Chicago.
 †Lord, John S., Chicago.
 Lowden, Frank O., Oregon.
 †Lowenthal, S. L., Chicago.
 †Lowy, Charles F., Chicago.
 Iyford, Will H., Chicago.
 †Lynde, Cornelius, Chicago.
 MacChesney, Nathan William, Chicago.
 Mack, Julian W., Chicago.
 †Mack, Thomas, Chicago.
 †MacLeish, John E., Chicago.
 †Magee, Henry W., Chicago.
 †Maher, James, Chicago.
 Mahony, Charles L., Chicago.
 †Mains, Frederick, Chicago.
 Manierre, George W., Chicago.
 †Marso, Michael, Chicago.
 Marston, Thomas B., Chicago.
 †Martin, Amos W., Chicago.
 Martin, Horace H., Chicago.
 Marx, Frederick Z., Chicago.
 Matheny, James H., Springfield.
 Matz, Rudolph, Chicago.
 Mayer, Levy, Chicago.
 †Meagher, James F., Chicago.
 Mecartney, Harry S., Chicago.
 †Mecham, John Barton, Chicago.
 Mechem, Floyd R., Chicago.
 †Mehlhope, Clarence E., Chicago.
 †Mergentheim, Morton A., Chicago.
 Merrick, George Peck, Chicago.
 †Meyer, Abraham, Chicago.
 Meyer, Carl, Chicago.
 Miles, Charles V., Peoria.
 Miller, John S., Chicago.
 †Mills, Allen G., Chicago.
 Montgomery, John R., Chicago.
 †Moore, Frederick W., Chicago.
 More, Clair E., Chicago.
 †More, R. Wilson, Chicago.
 Morrill, Donald L., Chicago.
 †Morris, Henry C., Chicago.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- ‡Morris, Charles F., Chicago.
 ‡Moses, Joseph W., Chicago.
 ‡Mosser, Edwin J., Chicago.
 ‡Murray, Patrick F., Chicago.
 Muagrave, Harrison, Chicago.
 McArdle, P. L., Chicago.
 ‡McBean, Archibald J. F., Chicago.
 McCordic, Alfred E., Chicago.
 McCormick, Robert H., Jr., Chicago.
 McElroy, John H., Chicago.
 McEwen, Willard M., Chicago.
 McGoorty, John P., Chicago.
 ‡McGregor, Major, Chicago.
 ‡McIlvaine, Alan C., Chicago.
 ‡McKeown, John A., Chicago.
 ‡McMurdy, Robert, Chicago.
 McSurely, William H., Chicago.
 ‡Neiger, J. J., Virginia.
 Newman, Jacob, Chicago.
 ‡Newcomb, George Eddy, Chicago.
 ‡Newton, Charles E. M., Chicago.
 Niblack, William C., Chicago.
 ‡Northcott, Wm. A., Springfield.
 Norton, T. J., Chicago.
 ‡O'Connell, Jeremiah B., Chicago.
 O'Connor, Charles J., Chicago.
 ‡O'Connor, John, Chicago.
 ‡O'Donnell, James L., Joliet.
 O'Donnell, Joseph A., Chicago.
 Offield, Charles K., Chicago.
 ‡O'Hare, Thomas J., Chicago.
 O'Harra, Apollos W., Carthage.
 ‡O'Keefe, P. J., Chicago.
 ‡O'Meara, C. S., Chicago.
 ‡Orr, Louis T., Chicago.
 Packard, George, Chicago.
 Paden, Joseph E., Chicago.
 Page, Oedil, Chicago.
 Page, George T., Peoria.
 ‡Pam, Max, Chicago.
 Parker, Francis W., Chicago.
 Parker, Lewis W., Chicago.
 ‡Parker, Woodruff, J., Chicago.
 Parkinson, Robert H., Chicago.
 Payne, John Barton, Chicago.
 Peabody, Augustus S., Chicago.
 Peaks, George H., Chicago.
 ‡Pearsons, Harry P., Chicago.
 Peck, George R., Chicago.
 ‡Peck, Ralph L., Chicago.
 ‡Peden, Thomas J., Chicago.
 Peck, Burton F., Moline.
 ‡Penwell, Fred B., Danville.
 Peterson, James A., Chicago.
 ‡Pfium, Abraham J., Chicago.
 Pinckney, Merritt W., Chicago.
 ‡Plain, Frank G., Aurora.
 Pingrey, Darius H., Bloomington.
 Pollack, Sidney S., Chicago.
 Poppenhusen, Conrad H., Chicago.
 Post, Philip S., Chicago.
 ‡Powell, Charles L., Chicago.
 ‡Prindville, Thos. W., Chicago.
 ‡Prindville, John K., Chicago.
 Prussing, Eugene E., Chicago.
 Rector, Edward, Chicago.
 Reed, Frank F., Chicago.
 ‡Reed, John P., Chicago.
 ‡Reed, William L., Chicago.
 ‡Reynolds, Asa Z., Chicago.
 Richards, John T., Chicago.
 Richberg, Donald R., Chicago.
 Richberg, John C., Chicago.
 ‡Richmann, Alex. F., Chicago.
 Rider, George C., Pekin.
 Rinaker, John I., Carlinville.
 ‡Ritchie, William, Chicago.
 Robbins, Henry S., Chicago.
 ‡Rockhold, Frank A., Chicago.
 Rogers, Edward S., Chicago.
 Rogers, George Mills, Chicago.
 ‡Booney, Thos. Edward, Chicago.
 ‡Rosenbaum, M. I., Chicago.
 ‡Rosenthal, James, Chicago.
 Rosenthal, Lessing, Chicago.
 ‡Ross, Walter W., Chicago.
 Rothman, William, Chicago.
 Rubens, Harry, Chicago.
 Rummler, William R., Chicago.
 Runnells, John S., Chicago.
 ‡Ryan, Andrew J., Chicago.
 ‡Ryden, Otto G., Chicago.
 ‡Ryer, Julian C., Chicago.
 Ryon, Oscar B., Streator.
 ‡Sabath, Joseph, Chicago.
 Sauter, L. E., Chicago.
 Schofield, Henry, Chicago.
 ‡Schaffner, Arthur B., Chicago.
 ‡Schlesinger, Elmer, Chicago.
 Scott, Frank H., Chicago.
 Scott, James Brown (Washington, D. C.),
 Champaign.
 Sears, Nathaniel C., Chicago.
 ‡See, Cornelius S., Chicago.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Beneff, E. H., Chicago.
 †Shabad, Henry M., Chicago.
 †Sheean, David, Galena.
 Sheean, James M., Chicago.
 †Shepard, Frank L., Chicago.
 Shepard, Stuart G., Chicago.
 Sheriff, Andrew R., Chicago.
 †Shulman, Max, Chicago.
 Sidley, William F., Chicago.
 †Silber, Clarence J., Chicago.
 Silber, Frederick D., Chicago.
 †Simmons, Rufus S., Chicago.
 Sims, Edwin W., Chicago.
 Sivley, Clarence L., Chicago.
 Smith, Frederick A., Chicago.
 †Smith, Walter Bourne, Chicago.
 †Smyser, Nathan S., Chicago.
 †Stapleton, Wm. J., Chicago.
 Starr, Merritt, Chicago.
 †Stearns, Frederic W., Chicago.
 †Stebbins, Lewis A., Chicago.
 †Steele, Percival, Chicago.
 †Stelk, John, Chicago.
 †Stephens, R. Allen, Danville.
 Stephens, Redmond D., Chicago.
 †Stevens, George M., Chicago.
 Stewart, Robert W., Chicago.
 Stillman, Herman W., Chicago.
 †Straus, Simeon, Chicago.
 Strawn, Silas H., Chicago.
 †Taylor, Leslie J., Taylorville.
 Taylor, Thomas, Jr., Chicago.
 †Teller, Carroll A., Chicago.
 Tenney, Horace Kent, Chicago.
 Thomas, Morris St. Palais, Chicago.
 Thomason, Frank D., Chicago.
 †Thomason, Samuel Emory, Chicago.
 Thornton, Charles S., Chicago.
 †Tivnen, Bryan H., Mattoon.
 Tolman, Edgar B., Chicago.
 †Toolen, Clarence A., Chicago.
 †Torrison, Oscar M., Chicago.
 Towle, Henry S., Chicago.
 †Triaka, Joseph F., Chicago.
 Troup, Charles, Danville.
 †Trumbull, Donald S., Chicago.
 Underwood, Arthur W., Chicago.
 Urion, Alfred R., Chicago.
 Veeder, Henry, Chicago.
 †Velde, Franklin L., Pekin.
 Voigt, John F., Chicago.
 †Vose, Frederic Perry, Chicago.

Yroman, Charles E., Chicago.
 †Wait, Horatio Loomis, Chicago.
 Wall, George W., Du Quoin.
 Walter, Luther M., Chicago.
 Washburn, William D., Chicago.
 †Weber, Harry P., Chicago.
 †Weinfeld, Charles, Chicago.
 †Weissenbach, Joseph, Chicago.
 †Welch, William S., Chicago.
 Wells, Hosea W., Chicago.
 †Wentworth, Daniel S., Chicago.
 West, Roy O., Chicago.
 †Wetten, Emil C., Chicago.
 Wheeler, Arthur Dana, Chicago.
 Wheelock, William W., Chicago.
 Whitman, Russell, Chicago.
 †Whitney, Max H., Chicago.
 Whittier, Clarke B., Chicago.
 Wigmore, John H., Chicago.
 Wilkerson, James H., Chicago.
 Williams, E. P., Galesburg.
 †Wilson, Wm. T., Jacksonville.
 Windes, Thomas G., Chicago.
 †Winston, Garrard B., Chicago.
 †Wolf, Henry Milton, Chicago.
 †Wolf, Oscar M., Chicago.
 †Wood, Elijah, Chicago.
 Worthington, Thomas, Jacksonville.
 †Wright, Wm. B., Effingham.
 Zane, John M., Chicago.
 Zelaler, Sigmund, Chicago.
 †Zillman, Christian C. H., Chicago.

INDIANA.

Adams, Andrew Addison, Indianapolis.
 †Amsden, Wm. M. Marion.
 Baker, Charles S., Columbus.
 †Bamberger, Ralph, Indianapolis.
 Barrett, James M., Fort Wayne.
 Bartholomew, Pliny W., Indianapolis.
 Batchelor, George H., Indianapolis.
 †Beal, Fred W., Terre Haute.
 Bingham, James, Indianapolis.
 Blair, Jesse H., Indianapolis.
 Boice, Augustin, Indianapolis.
 Bomberger, Loudon L., Hammond.
 Brady, Arthur W., Anderson.
 Breen, William P., Fort Wayne.
 Butler, Noble C., Indianapolis.
 Chipman, Marcellus A., Anderson.
 Clapham, William E., Columbia City.
 †Collins, Cornelius R., Michigan City.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- Cook, Samuel E., Huntington.
 †Cooper, James A., Jr., Terre Haute.
 †Cox, Linton A., Indianapolis.
 Cunningham, George A., Evansville.
 Daniels, Edward, Indianapolis.
 †Davidson, Robert F., Indianapolis.
 Davis, Sydney B., Terre Haute.
 Dye, John T., Indianapolis.
 ElHott, William F., Indianapolis.
 Evans, Rowland, Indianapolis.
 Fairbanks, Charles W., Indianapolis.
 Fesler, James William, Indianapolis.
 Fraser, Daniel, Fowler.
 Frey, Philip W., Evansville.
 †Gavin, James L., Indianapolis.
 Gould, John H., Delphi.
 Hammond, Edwin P., Lafayette.
 Hanan, John W., La Grange.
 Hawkins, Roscoe O., Indianapolis.
 Haymond, William T., Muncie.
 Haywood, George P., Lafayette.
 Heaton, Owen N., Fort Wayne.
 Hepburn, Charles M. (New York, N. Y.),
 Bloomington.
 †Herron, Joseph C., Kokomo.
 Hogate, Enoch G., Bloomington.
 Holman, George Wilson, Rochester.
 †Hood, Arthur M., Indianapolis.
 †Hornbrook, Henry H., Indianapolis.
 †Hugg, Martin M., Indianapolis.
 Ingler, Francis M., Indianapolis.
 Jameson, Ovid B., Indianapolis.
 Jewett, Charles L., New Albany.
 Jom, Frederick A., Indianapolis.
 Kane, Ralph E., Noblesville.
 Kelley, William H., Richmond.
 †Kepperley, James E., Indianapolis.
 Kern, John W., Indianapolis.
 Ketcham, William A., Indianapolis.
 †Koon, George H., Muncie.
 Kiplinger, John H., Rushville.
 †Littleton, Frank C., Indianapolis.
 Lockwood, Virgil H., Indianapolis.
 †Mackibbin, Stuart, South Bend.
 Martindale, Charles, Indianapolis.
 †Mellin, Robert L., Bedford.
 Miller, Charles W., Indianapolis.
 Montgomery, Oscar H., Seymour.
 Moores, Charles W., Indianapolis.
 Moores, Merrill, Indianapolis.
 †Moran, D. J., Hammond.
 Morris, John, Fort Wayne.
 Myers, Quincy A., Logansport.
 †McBride, Robert W., Indianapolis.
 Newberger, Louis, Indianapolis.
 Niezer, Charles M., Fort Wayne.
 Noel, James W., Indianapolis.
 Palmer, Truman F., Monticello.
 †Parker, Samuel, South Bend.
 Pickens, Samuel O., Indianapolis.
 Pickens, William A., Indianapolis.
 †Reilly, John F., Hammond.
 Roby, Frank S., Indianapolis.
 †Ross, George Ewing, Logansport.
 Rupe, John L., Richmond.
 †Salsbury, Elias D., Indianapolis.
 Saylor, Samuel M., Huntington.
 Sellers, Emory B., Monticello.
 Sheridan, Harry C., Frankfort.
 Simms, Dan W., Lafayette.
 Smith, Charles W., Indianapolis.
 Snyder, Charles M., Fowler.
 Spencer, Charles C., Monticello.
 Stevenson, Elmer E., Indianapolis.
 Stuart, William V., Lafayette.
 Taylor, R. S., Fort Wayne.
 Throckmorton, Archibald H., Bloom-
 ington.
 Tuthill, Harry B., Michigan City.
 Widaman, John D., Warsaw.
 †Williams, David P., Indianapolis.
 Williams, John G., Indianapolis.
 Wood, Sol A., Fort Wayne.
 Wurzer, F. Henry, South Bend.

IOWA.

- Anderson, Milton H., Hancock.
 Bailey, Marsh W., Washington.
 Baldwin, W. W., Burlington.
 †Ball, George W., Jr., Iowa City.
 Bollinger, James Willa, Davenport.
 Bonson, Robert, Dubuque.
 Brennan, Robert, Des Moines.
 Brockett, Orlando Mitchell, Des Moines.
 †Calkins, Guy S., Iowa City.
 Canaday, Walter, Ames.
 Carr, E. M., Manchester.
 Cavanagh, B. J., Des Moines.
 Cliggett, John, Mason City.
 Craig, John E., Keokuk.
 Crosby, James O., Garnavillo.
 Cummins, Albert B. (U. S. Senate),
 Des Moines.
 Dale, Horatio F., Des Moines.
 Davis, James C., Des Moines.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Davis, Walter M., Iowa City.
 Deery, John, Dubuque.
 Denison, John D., Jr., Dubuque.
 Devitt, John F., Muscatine.
 †Dorn, Clinton R., Des Moines.
 Dudley, Charles A., Des Moines.
 Dutcher, Charles M., Iowa City.
 Evans, Edward B., Des Moines.
 †Ferson, Merton L., Iowa City (Washington, D. C.)
 Flickinger, Isaac N., Council Bluffs.
 Flynn, Leo J., Dubuque.
 Frantzen, John P., Dubuque.
 Fuller, E. Dean (Mexico City, Mexico), Des Moines.
 Guernsey, Nathaniel T., Des Moines.
 †Hamilton, Wm. Scott, Fort Madison.
 Harvison, William G., Des Moines.
 Henry, George F., Des Moines.
 Hise, George E., Des Moines.
 Holzman, Henry B., Guthrie Center.
 †Horack, H. C., Iowa City.
 †Hughes, Clinton B., West Union.
 †Jennings, G. B., Shenandoah.
 †Kelleher, D. M., Fort Dodge.
 †Kennedy, J. L., Sioux City.
 †Kimball, F. B., Iowa City.
 Kingland, Thomas A., Lake Mills.
 †Kirk, Clyde, Des Moines.
 Lane, Wilfred C., Des Moines.
 Lee, Chaucer G., Ames.
 Lenehan, Daniel J., Dubuque.
 †Lyon, A. C., Grinnell.
 †Martin, Wesley, Webster City.
 Matthews, Matthew C., Dubuque.
 Miller, Jesse A., Des Moines.
 Moffit, John T., Tipton.
 †Moine, A. E., Iowa City.
 Moore, William F., Guthrie Center.
 †Morrison, Edmund D., Washington.
 Murphy, Daniel D., Elkader.
 McClain, Emlin, Iowa City.
 McConlogue, James H., Mason City.
 McLaughlin, A. A., Des Moines.
 McPherson, Smith, Redoak.
 Norria, William H., Manchester.
 †Nourse, Clinton L., Des Moines.
 Read, William L., Des Moines.
 Reed, Carl W., Cresco.
 Reed, H. T., Cresco.
 Roberts, William J., Keokuk.
 Rockafellow, J. B., Atlantic.
 †Rule, Duncan, Hammond.

Sawyer, Hazen I., Keokuk.
 Sherwin, John C., Mason City.
 Shiras, Oliver F., Dubuque.
 †Shull, Delos C., Sioux City.
 †Silwold, Henry, Newton.
 †Stewart, A. K., Des Moines.
 †Stewart, George B., Fort Madison.
 Stillman, Walter S. (Omaha, Neb.), Council Bluffs.
 Straus, Oscar, Des Moines.
 †Sullivan, Jerry B., Des Moines.
 Swetting, Ernest V., Algona.
 Thorne, Clifford, Des Moines.
 †Underwood, George A., Ames.
 †Van Law, C. H., Marshalltown.
 Wade, M. J., Iowa City.
 Walker, Henry G., Iowa City.
 Wallingford, John D., Des Moines.
 Walsh, Mark A., Clinton.
 Weaver, James B., Jr., Des Moines.
 †Weeks, Elbert Wright, Guthrie Center.
 Whitmore, Chester W., Ottumwa.
 Wilcox, Elmer A., Iowa City.
 †Wissler, E. A., Carroll.

KANSAS.

Alden, Maurice L., Kansas City.
 Allen, Stephen H., Topeka.
 Benton, C. E., Fort Scott.
 †Berger, Albert L., Kansas City.
 †Blair, E. W., Topeka.
 †Boaz, O. T., Pittsburg.
 Bond, Thomas L., Salina.
 Bowman, Noah L., Garnett.
 Brooks, C. H., Wichita.
 Brown, W. W., Parsons.
 Burdick, William Livesey, Lawrence.
 Campbell, Altes H., Iola.
 Campbell, J. J., Pittsburg.
 †Carey, Joseph G., Wichita.
 Clark, Elmer C., Oswego.
 Crain, John H., Fort Scott.
 Curran, John P., Pittsburg.
 Doster, Frank, Topeka.
 Evans, Earl W., Wichita.
 Fitzwilliam, F. P., Leavenworth.
 Gaitakill, Bennett S., Girard.
 †Gates, Edward C., Fort Scott.
 Glead, James Willis, Topeka.
 Green, J. W., Lawrence.
 Harvey, A. M., Topeka.
 Hawkes, S. N., Stockton.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Higgins, William E., Lawrence.
 Hill, Henry C., Lawrence.
 Holt, William G., Kansas City.
 Houston, J. D., Wichita.
 Hudson, T. J., Fredonia.
 †Humphrey, James V., Junction City.
 †Hurd, A. A., Topeka.
 Hutchison, William Easton, Garden City.
 †Johnson, Frank O., McPherson.
 Jones, Howell, Topeka.
 Jones, John J., Chanute.
 Kagey, C. L., Beloit.
 Keene, A. M., Fort Scott.
 Kimble, Samuel, Manhattan.
 Larimer, Jeremiah B., Topeka.
 †Long, Chester I., Wichita.
 Madison, E. H., Dodge City.
 †Magaw, Charles A., Topeka.
 Martin, F. L., Hutchinson.
 †Martin, H. S., Marion.
 †Mitchell, J. K., Osborne.
 Moore, J. McCabe, Kansas City.
 Mulvane, David W., Topeka.
 McClintock, W. S., Topeka.
 †Nofziger, Thomas A., Wichita.
 Orr, James W., Atchison.
 Osborn, Edward D., Topeka.
 †Osmond, William, Great Bend.
 Oyler, F. J., Iola.
 Pollock, John C., Kansas City.
 Porter, Silas, Topeka.
 Pulsifer, Park B., Concordia.
 Sapp, Edward E., Salina.
 Scandrett, Henry A., Topeka.
 †Simmons, J. S., Hutchinson.
 Slonecker, J. G., Topeka.
 Smith, Charles Blood, Topeka.
 Smith, Charles W., Stockton.
 †Smith, Solon W., Liberal.
 †Stene, Robert, Topeka.
 Switzer, John F., Topeka.
 Waggener, Balie P., Atchison.
 Waggener, William P., Atchison.
 Wagstaff, Thos. E., Independence.
 Walker, Paul E., Topeka.
 †West, Judson S., Topeka.
 Wilder, L. H., Norton.

KENTUCKY.

Allen, John R., Lexington.
 Allen, Lafon, Louisville.
 Anderson, Thornwell G., Middlesboro.

Apperson, Lewis, Mt. Sterling.
 †Attkisson, E. R., Louisville.
 Ayres, William, Pineville.
 Baskin, John B., Louisville.
 Berry, W. Alvin, Paducah.
 Bingham, Robert W., Louisville.
 Booth, Percy N., Louisville.
 †Bradshaw, William Francis, Jr., Paducah.
 Brandeis, Albert S., Louisville.
 Brown, Eli Huston, Jr., Frankfort.
 Bruce, Helm, Louisville.
 Bullitt, William Marshall, Louisville.
 Calhoun, C. O. (Washington, D. C.), Lexington.
 Calvert, Cleon E., Hyden.
 Cochran, Andrew M. J., Maysville.
 Cox, Attila, Jr., Louisville.
 Cox, William J., Madisonville.
 Crawford, William W., Louisville.
 Davis, William T., Pineville.
 Doolan, John C., Louisville.
 DuRelle, George, Louisville.
 Eaton, William V., Paducah.
 †Edwards, Davis W., Louisville.
 †Ernst, Richard P., Covington.
 Fairleigh, James Franklin, Louisville.
 Flexner, Bernard, Louisville.
 Gordon, Maurice Kirby, Madisonville.
 †Grassham, C. C., Paducah.
 Grubbs, Charles S., Louisville.
 Hieatt, Clarence C., Louisville.
 Hinea, Edward W., Louisville.
 Hopkins, Arthur E., Louisville.
 Hughes, D. H., Paducah.
 Hunt, N. B., Dixon.
 Jeffries, James H., Pineville.
 Jonson, Jerrold A., Madisonville.
 Kohn, Aaron, Louisville.
 Lewis, William, London.
 Macpherson, Ernest, Louisville.
 Metcalf, Charles W., Pineville.
 Mocquot, James Denis, Paducah.
 McDermott, Edward J., Louisville.
 McDonald, Edward L., Louisville.
 †Miller, R. A., Owensboro.
 †Norman, J. V., Louisville.
 Patterson, Newton Reid, Pineville.
 Pirtle, James S., Louisville.
 †Prewitt, Henry R., Mt. Sterling.
 Quarles, James, Louisville.
 Ray, Charles T., Louisville.
 Reed, William M., Paducah.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Robbins, Josephus Ewing, Mayfield.
 Rouse, Shelley D., Covington.
 †Sanders, Henry Williams, Louisville.
 Selligman, Alfred, Louisville.
 Settle, Warner Ellmore, Bowling Green.
 †Shelby, John T., Lexington.
 †Simmerman, R. E. L., Hartford.
 †Simmons, Robert C., Covington.
 Sims, James Caswell, Bowling Green.
 †Solinger, Jacob, Louisville.
 Stoll, Richard C., Lexington.
 Stone, Henry L., Louisville.
 †Stuart, T. G., Winchester.
 †Theobald, Thomas Dudley, Grayson.
 Thomas, Gus, Mayfield.
 †Thomas, R. C. P., Bowling Green.
 †Thomas, Thomas W., Bowling Green.
 Thornton, Robert A., Lexington.
 Thum, William Warwick, Louisville.
 Tomlin, John G., Walton.
 Trabue, Edmund F., Louisville.
 Waddill, C. J., Madisonville.
 Wheeler, Charles K., Paducah.
 †Wilson, Samuel M., Lexington.
 †Worsham, John C., Henderson.
 Yeaman, James M., Henderson.

LOUISIANA.

Adams, St. Clair, New Orleans.
 Alexander, Taliaferro, Shreveport.
 Barret, Thomas C., Shreveport.
 Beattie, Taylor, Thibodaux.
 Bell, T. F., Shreveport.
 Blair, Jos. Paxton, New Orleans.
 Boarman, Aleck, Shreveport.
 †Bollinger, E. Elmo, Slidell.
 Breaux, Joseph A., New Orleans.
 Broussard, Robert F., New Iberia.
 Browne, E. Wales, Shreveport.
 Bruenn, Bernard, New Orleans.
 Brunot, H. F., Baton Rouge.
 Buck, Charles Francis, New Orleans.
 †Burns, Louis Henry, New Orleans.
 Cahn, Edgar M., New Orleans.
 Carmouche, W. J., Crowley.
 Carroll, Charles, New Orleans.
 Carroll, Joseph Wheadon, New Orleans.
 Carter, Henry J., New Orleans.
 Carver, M. H., Natchitoches.
 Chaffe, David B. H., New Orleans.
 Chretien, Frank D., New Orleans.
 Cline, J. D., Lake Charles.
 Coco, Adolph Valery, Marksville.
 Dart, Henry P., New Orleans.
 Dart, Henry P., Jr., New Orleans.
 Davey, John C., Jr., New Orleans.
 Daziger, Alfred David, New Orleans.
 Denègre, George, New Orleans.
 Denègre, Walter D., New Orleans.
 Dinkelspiel, Max, New Orleans.
 Dubuisson, E. B., Opelousas.
 Duchamp, Charles A., New Orleans.
 Dufour, H. Generes, New Orleans.
 Dufour, Horace L., New Orleans.
 Dufour, William C., New Orleans.
 Dupre, Gilbert L., Jr., New Orleans.
 Dupre, H. Garland, New Orleans.
 Dymond, John, Jr., New Orleans.
 Ellis, S. D., Amite City.
 Ellis, Thomas C. W., New Orleans.
 Farrar, Edgar H., New Orleans.
 Fenner, Charles Payne, New Orleans.
 Florance, Ernest T., New Orleans.
 Flynn, Thomas D., New Orleans.
 Forman, Benjamin Rice, New Orleans.
 Friedrichs, Carl C., New Orleans.
 Furlow, Thomas E., New Orleans.
 Gleason, W. L., New Orleans.
 Godchaux, Emile, New Orleans.
 Goldberg, Abraham, New Orleans.
 Goldsborough, R. F., New Orleans.
 Hart, Frank Wm., New Orleans.
 Hart, W. O., New Orleans.
 Hebert, Clarence Samuel, New Orleans.
 Henriques, E. F., New Orleans.
 Henriques, James C., New Orleans.
 Herold, S. L., Shreveport.
 Hudson, E. M., New Orleans.
 Hughes, William L., New Orleans.
 Hunt, Carleton, New Orleans.
 Kemp, Bolivar E., Amite.
 King, Frederick D., New Orleans.
 Land, Alfred D., New Orleans.
 Lawrason, Samuel McC., St. Francisville.
 †Lazarus, Eldon S., New Orleans.
 Leake, Hunter C., New Orleans.
 Légèndre, James, New Orleans.
 Lemann, Monte M., New Orleans.
 †Lemann, Walter, Donaldville.
 Lemle, Gustave, New Orleans.
 Lewis, Walter Stanford, New Orleans.
 Marrero, L. H., Jr., New Orleans.
 Merrick, Edwin T., New Orleans.
 Miller, John D., New Orleans.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Miller, T. M., New Orleans.
 Milling, R. E., New Orleans.
 Milner, Purnell M., New Orleans.
 Monroe, J. Blanc, New Orleans.
 †Montgomery, Richard B., New Orleans.
 Montgomery, Samuel A., New Orleans.
 Mooney, Henry, New Orleans.
 Moore, I. D., New Orleans.
 McCloskey, Bernard, New Orleans.
 McConnell, James, New Orleans.
 McGuirk, Arthur, New Orleans.
 †McLoughlin, James J., New Orleans.
 O'Donnell, Lawrence, New Orleans.
 O'Niell, Charles A., Franklin.
 O'Sullivan, E. A., New Orleans.
 Overton, Winston, Lake Charles.
 Parkerson, William Stirling, New Orleans.
 Parsons, Edward A., New Orleans.
 Peters, Arthur John, New Orleans.
 Pujo, Arsene P., Lake Charles.
 Quintero, Lamar C., New Orleans.
 Rainold, Frank E., New Orleans.
 Randolph, Edward H., Shreveport.
 Romain, Armand, New Orleans.
 Rosen, Charles, New Orleans.
 Rosser, J. B., Jr., New Orleans.
 St. Paul, John, New Orleans.
 †Sarpy, Henry L., New Orleans.
 Saunders, Eugene D., New Orleans.
 Saxon, Lyle, New Orleans.
 †Schwarz, Ralph J., New Orleans.
 Sommerville, W. B., New Orleans.
 Soule, Frank, New Orleans.
 Spearling, J. Zach., New Orleans.
 †Spencer, Walker Brinard, New Orleans.
 Stafford, Ethelred M., New Orleans.
 Story, Hampden, Crowley.
 Stubbs, Frank P., Jr., Monroe.
 Terriberry, George Hutchins, New Orleans.
 Theard, Charles J., New Orleans.
 Thilborger, Edward J., New Orleans.
 Thornton, J. R., Alexandria.
 Titche, Bernard, New Orleans.
 Tobin, John F., New Orleans.
 Tullis, Robert L., Baton Rouge.
 Waguespack, W. J., New Orleans.
 Waldo, Benjamin T., New Orleans.
 Waldo, John F. C., New Orleans.
 Wall, Isaac D., Baton Rouge.
 Walton, J. F., New Orleans.
 Walsh, George C., New Orleans.
 White, H. H., Alexandria.

Williamson, W. B., Lake Charles.
 Wolf, Solomon, New Orleans.
 Zuntz, James E., New Orleans.

MAINE.

Allen, Fred J., Sanford.
 Anthoine, William R., Portland.
 Appleton, Frederick H., Bangor.
 Bassett, Norman L., Augusta.
 Bird, George E., Portland.
 Blanchard, Cyrus N., Wilton.
 Bradbury, James O., Saco.
 Bradley, William M., Portland.
 Butler Frank W., Farmington.
 Chapman, Wilford G., Portland.
 Clark, Hugo, Bangor.
 †Clifford, Philip G., Portland.
 Cook, Charles Sumner, Portland.
 Cornish, Lealie C., Augusta.
 Deasy, Luere B., Bar Harbor.
 Deering, Henry, Portland.
 Donworth, Clement B., Machias.
 Drummond, Josiah H., Portland.
 Dunton, Robert F., Belfast.
 Dyer, Isaac W., Portland.
 Emery, Lucilius A., Ellsworth.
 Fox, James C., Portland.
 Freeman, Eben Winthrop, Portland.
 Gillin, P. H., Bangor.
 Goodwin, Forrest, Skowhegan.
 Hale, Clarence, Portland.
 Hale, Frederick, Portland.
 Haley, George F., Biddeford.
 Hamlin, Hannibal E., Ellsworth.
 Haskell, Frank H., Portland.
 Heath, Herbert M., Augusta.
 Heselton, George W., Gardiner.
 Higgins, Frank M., Limerick.
 Hobbs, Fred A., South Berwick.
 Holman, C. Vey, Bangor.
 Holway, Melvin Smith, Augusta.
 Hussey, Charles Walter, Waterville.
 Hutchinson, Charles L., Portland.
 Ingraham, William M., Portland.
 Ives, Howard R., Portland.
 Johnson, Charles F., Waterville.
 Jones, Freeland, Bangor.
 King, Arno W., Ellsworth.
 Knowlton, William J., Portland.
 Laughlin, Matthew, Bangor.
 †Lawrence, Fred P., Showhegan.
 Libby, Charles F., Portland.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Lumbert, Wallace R., Caribou.
 Lynch, Thomas J., Augusta.
 Madigan, John B., Houlton.
 Mason, John Rogers, Bangor.
 Matthews, Fred V., Portland.
 Meaher, Dennis A., Portland.
 Mitchell, Henry L., Bangor.
 Moore, Joseph E., Thomaston.
 Morrill, John A., Auburn.
 †McLarren, Irvine Green, Eastport.
 McQuillan, George F., Portland.
 Newell, William H., Lewiston.
 Noyes, George F., Portland.
 Parkhurst, Frederic H., Bangor.
 Pattangall, W. R., Waterville.
 Payson, Franklin C., Portland.
 Peabody, Clarence W., Portland.
 Perry, Stephen C., Portland.
 Peters, John A., Ellsworth.
 Philbrook, Warren C., Waterville.
 Potter, Barrett, Brunswick.
 Powers, Frederick A., Houlton.
 †Richards, Elmer E., Farmington.
 Ryder, Erasmus C., Bangor.
 Savage, Albert R., Auburn.
 Sawyer, Clarence E., Portland.
 Sewall, Harold M., Bath.
 Skelton, William B., Lewiston.
 Smith, Bertram L., Patten.
 Snow, David W., Portland.
 Swasey, John P., Canton.
 Symonds, Joseph W., Portland.
 Thompson, Benjamin, Portland.
 †Thompson, George E., Bangor.
 Tompason, Edward F., Portland.
 Tripp, William M., Wells.
 Trott, Joseph M., Bath.
 Verrill, Harry M., Portland.
 Virgin, Harry Rush, Portland.
 Ward, Benjamin G., Portland.
 Webber, George Curtis, Auburn.
 Whitehouse, William P., Augusta.
 †Wilson, John, Bangor.
 Wilson, Virgil C., Portland.
 Wing, George Curtis, Auburn.
 Woodman, Albert S., Portland.
 Woodman, Edward, Portland.

MARYLAND.

Adkins, William H., Easton.
 Ash, David, Baltimore.

Baetjer, Edwin G., Baltimore.
 Baetjer, Harry N., Baltimore.
 Baldwin, Charles G., Baltimore.
 Barroll, Hope H., Chestertown.
 Bartlett, J. Kemp, Baltimore.
 Barton, Randolph, Baltimore.
 Bernard, Richard, Baltimore.
 Bonaparte, Charles J., Baltimore.
 Bond, Carroll T., Baltimore.
 †Bond, Nicholas P., Baltimore.
 Bowers, James W., Jr., Baltimore.
 Boyd, A. Hunter, Cumberland.
 Brady, George Moore, Baltimore.
 Brantly, William T., Baltimore.
 Briscoe, John P., Prince Frederick.
 Burger, Louis J., Baltimore.
 Calwell, James S., Baltimore.
 Carey, Francis K., Baltimore.
 Chesnut, W. Calvin, Baltimore.
 Coady, Charles P., Baltimore.
 Crain, Robert, Baltimore.
 Cross, William Irvine, Baltimore.
 Dawkins, Walter L., Baltimore.
 Dawson, William H., Baltimore.
 Deming, John B., Baltimore.
 Dennis, James U., Baltimore.
 Devecmon, William C., Cumberland.
 Donnelly, Edward A., Baltimore.
 Doub, Albert A., Cumberland.
 Duvall, Richard Maren, Baltimore.
 Fink, Charles E., Westminster.
 Fisher, D. K. Este, Baltimore.
 France, Jacob, Baltimore.
 France, Joseph C., Baltimore.
 Frank, Eli, Baltimore.
 Gans, Edgar H., Baltimore.
 †Gill, Roger T., Baltimore.
 †Goldsborough, P. L., Cambridge.
 Goldsborough, T. Alan, Denton.
 †Graham, Robert P., Baltimore.
 Gregg, Maurice, Baltimore.
 †Haines, Frederick T., Elkton.
 Harlan, Henry D., Baltimore.
 Harley, Charles F., Baltimore.
 Hayes, Thomas G., Baltimore.
 Henderson, Robert R., Cumberland.
 Heuhaler, Charles W., Baltimore.
 Hill, John Philip, Baltimore.
 Hinkley, John, Baltimore.
 Hisky, Thomas Foley, Baltimore.
 Homer, Francis T., Baltimore.
 Howard, Charles Morris, Baltimore.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Howard, Charles McH., Baltimore.
 Hubner, Henry H., Baltimore.
 Hughes, Thomas, Baltimore.
 Keech, E. Parkin, Jr., Baltimore.
 Kemp, W. Thomas, Baltimore.
 †Lauchheimer, Sylvan Hayes, Baltimore.
 Leakin, J. Wilson, Baltimore.
 Lee, Blair (Washington, D. C.), Silver Spring.
 †Levy, William B., Baltimore.
 †Machen, Arthur E., Jr., Baltimore.
 Mackenzie, Thomas, Baltimore.
 †Maloy, Wm. Milnes, Baltimore.
 Marbury, William L., Baltimore.
 Marshall, R. E. Lee, Baltimore.
 Melvin, Ridgely P., Annapolis.
 Miles, Joshua W., Princess Anne.
 Miller, John G., Cumberland.
 Moses, Jacob M., Baltimore.
 Mullin, Michael A., Baltimore.
 Munroe, James M., Annapolis.
 Niles, Alfred S., Baltimore.
 O'Brien, William J., Jr., Baltimore.
 O'Dunne, Eugene, Baltimore.
 Offutt, Thiemann Scott, Towson.
 Pearce, James A., Chestertown.
 Pratt, James R., Baltimore.
 Purnell, Clayton, Frostburg.
 Rich, Edward N., Baltimore.
 Richmond, Benjamin A., Cumberland.
 Ritchie, Albert C., Baltimore.
 Robinson, Thomas H., Bel Air.
 Rose, John C., Baltimore.
 Sappington, Augustine DeR., Baltimore.
 Sappington, G. Ridgely, Baltimore.
 Slingluff, R. Lee, Baltimore.
 Smith, Robert H., Baltimore.
 Stockbridge, Henry, Baltimore.
 Surratt, William H., Baltimore.
 Taylor, Archibald H., Baltimore.
 †Thom, J. Pembroke, Baltimore.
 Thomas, J. Hanson, Baltimore.
 Tippet, Richard B., Baltimore.
 Turner, Frank G., Baltimore.
 Urner, Hammond, Frederick.
 Walsh, William E., Cumberland.
 Walter, Moses R., Baltimore.
 Warfield, Edwin, Baltimore.
 Waters, Henry J., Princess Anne.
 Waters, J. S. T., Baltimore.
 Wattencheidt, Christopher R., Baltimore.
 Whitelock, George, Baltimore.
 Williams, Ferdinand, Cumberland.

Williams, Henry W., Baltimore.
 Williams, Stevenson A., Bel Air.
 Willis, George R., Baltimore.
 Wilmer, L. Allison, La Plata.
 Wolf, Oscar, Baltimore.

MASSACHUSETTS.

Abbot, Edwin H., Jr., Boston.
 Abbot, Edwin Hale, Boston.
 Abbott, Ira A., Haverhill.
 Abele, George W., Boston.
 Adams, Edward B., Boston.
 Adams, Walter, So. Framingham.
 †Ahern, David C., So. Framingham.
 Albers, Homer, Boston.
 Aldrich, Charles F., Worcester.
 Allen, Charles E., Boston.
 Allen, F. Sturges (New York, N. Y.), Springfield.
 †Anderson, Clifford S., Worcester.
 Anderson, Edwin G., Boston.
 Anderson, Elbridge R., Boston.
 Anderson, George W., Boston.
 Appleton, John H., Boston.
 Atherton, Percy A., Boston.
 Ayers, Walter, Brookline.
 Aylward, James F., Boston.
 Badger, Walter L., Boston.
 †Bailen, Samuel Lawrence, Boston.
 Bailey, Hollis R., Boston.
 Baker, Harvey H., Boston.
 Ballantine, Arthur A., Boston.
 Bancroft, Hugh, Boston.
 Barnes, Charles B., Jr., Boston.
 Barnes, Jonathan, Springfield.
 Barney, Charles Neal, Lynn.
 †Barry, William J., Boston.
 Bartlett, Charles W., Boston.
 Bartlett, Ralph Sylvester, Boston.
 Bassett, J. Colby, Boston.
 Bates, John Lewis, Boston.
 Beale, Joseph Henry, Jr., Cambridge.
 †Beaman, Middleton, Boston.
 Bell, Charles U., Andover.
 Bennett, Samuel C., Boston.
 Berenson, Arthur, Boston.
 †Berry, John King, Boston.
 Bigelow, Albert F., Boston.
 Bigelow, Cleveland, Boston.
 Bigelow, William Reed, Boston.
 Bingham, Norman W., Jr., Boston.
 Bishop, Elias B., Boston.

† Elected by Executive Committee between meetings, 1911-12.

† Elected by Association at annual meeting, 1912.

- Blackmur, Paul R., Boston.
 †Blinn, George Richard, Boston.
 Blodgett, Edward E., Boston.
 Blood, Charles H., Fitchburg.
 Bolster, Percy G., Boston.
 Bond, Lawrence, Boston.
 Bosworth, Charles Wilder, Springfield.
 †Bowker, Harrison W., Worcester.
 †Bradish, Frank Eliot, Boston.
 Braley, Henry K., Boston.
 Brandeis, Louis D., Boston.
 Brannan, Joseph Doddridge, Cambridge.
 Brayton, Israel, Fall River.
 Bremer, Clifton L., Boston.
 Brewer, Daniel Chauncey, Boston.
 Brown, Fred W., Boston.
 Bruce, Charles M., Boston.
 Buffum, Walter N., Boston.
 Bullock, A. G., Worcester.
 Burdett, Everett W., Boston.
 Burke, Charles E., Pittsfield.
 Burke, Francis, Boston.
 Burnham, Addison C., Boston.
 Burrage, Albert C., Boston.
 Cabot, Frederick Pickering, Boston.
 Carleton, Philip Greenleaf, Boston.
 Carroll, Francis M., Boston.
 †Carroll, James B., Springfield.
 Carver, Eugene P., Boston.
 Chamberlain, Albert Henry, Boston.
 Chamberlayne, Charles F., Buzzard's Bay.
 Chandler, Albert Minot, Boston.
 Chandler, Alfred D., Boston.
 Channing, Henry Morse, Boston.
 †Church, E. Bradford, Boston.
 Clapp, Robert P., Lexington.
 Clark, Chester W., Boston.
 Clark, I. R., Boston.
 Clark, Lyman K., Boston.
 Clarke, Arthur F., Boston.
 Clarke, George Lemist, Boston.
 Clarke, Henry Martyn, Boston.
 Clifford, Charles W., New Bedford.
 Coakley, Daniel H., Boston.
 Coale, George O. G., Boston.
 Cohen, Abraham K., Boston.
 †Collier, Forrest F., Boston.
 Colt, James D., Boston.
 Cook, Otis Seabury, New Bedford.
 Coolidge, William H., Boston.
 Corbett, Joseph J., Boston.
 Cotter, James E., Boston.
- Cox, Guy W., Boston.
 Crain, Robert Jackson, Boston.
 Crape, William W., New Bedford.
 Crocker, George G., Boston.
 Crosby, J. Porter, Boston.
 Crosby, John C., Pittsfield.
 Cummings, Charles R., Fall River.
 Cunningham, Frederic, Boston.
 Cunningham, Henry V., Boston.
 Currier, Guy W., Boston.
 Cushing, Livingstone, Boston.
 †Cusick, John F., Boston.
 Daly, Augustine J., Boston.
 Darling, Charles K., Boston.
 Davenport, Charles M., Boston.
 Davis, Harold S., Boston.
 Davis, Harrison M., Boston.
 Dean, Josiah S., Boston.
 DeCoursey, Charles A., Boston.
 Dennison, Joseph A., Boston.
 Dexter, Joa. P., So. Farmingham.
 †Dexter, Phillip, Boston.
 Dickinson, Marquis F., Boston.
 Dillaway, Wm. E. L., Boston.
 Dodge, Frederic, Boston.
 Dodge, Robert Gray, Boston.
 †Dolan, Arthur W., Boston.
 †Donald, Malcolm, Boston.
 Doran, James P., New Bedford.
 †Dow, Richard Sylvester, Boston.
 †Dowse, Wm. B. H., Boston.
 Dubuque, Hugo A., Fall River.
 Dunbar, Frank Emerson, Lowell.
 †Dunbar, James R., Boston.
 Dunbar, William H., Boston.
 Eastman, Chase, Boston.
 Elmer, Michael L., Pittsfield.
 Elder, Charles R., Boston.
 Elder, Samuel J., Boston.
 Ellis, David A., Boston.
 Ely, Frederick D., Boston.
 Ensign, Charles S., Jr., Boston.
 Eyges, Leon Russell, Boston.
 †Fagan, Joseph P., Boston.
 Fall, George Howard, Malden.
 Farley, John Wells, Boston.
 Farlow, John S., Boston.
 Farnham, Frank A., Boston.
 Farrell, Michael F., Boston.
 Feely, Joseph J., Boston.
 Ferber, J. Bernard, Boston.
 Field, Fred T., Boston.
 Field, Whitcomb, Boston.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Fish, Frederick P., Boston.
 Fisher, Frederic A., Lowell.
 Fiske, Andrew, Boston.
 Flint, Albert F., Boston.
 Flynn, George A., Boston.
 Folsom, Henry H., Boston.
 Forbes, J. Grant, Boston.
 Forbush, Frank M., Boston.
 †Foss, Ernest, Newburyport.
 Foster, Alfred D., Boston.
 Foster, Frederick, Boston.
 Foster, Reginald, Boston.
 †Fowler, Wm. P., Boston.
 Fox, William Henry, Taunton.
 French, Arthur P., Boston.
 French, Asa P., Boston.
 French, William B., Boston.
 Friedman, Lee M., Boston.
 Fuller, James, Roxbury.
 Gage, Thomas Hovey, Worcester.
 Gallagher, Charles T., Boston.
 Gallagher, Thomas F., Fitchburg.
 Garcelon, William F., Boston.
 Garfield, Harry A., Williamstown.
 †Gerstein, Carl, Boston.
 Giddings, Charles, Great Barrington.
 Gilman, Edwin C., Boston.
 Goodale, Francis G., Boston.
 Goodspeed, Alex. McLellan, New Bedford.
 Goodwin, Robert E., Boston.
 Grant, Walter B., Boston.
 Gray, J. Converse, Boston.
 Gray, John C., Boston.
 Greene, Frederick L., Greenfield.
 Griannell, Charles E., Boston.
 Grinnell, Frank W., Boston.
 Hadley, Eugene J., Boston.
 Hale, Richard W., Boston.
 Hall, Damon E., Boston.
 Hall, Edward Kimball, Boston.
 Hall, F. Rockwood, Boston.
 Hall, Frank B., Worcester.
 Hall, Frederick S., Taunton.
 Hall, John L., Boston.
 Hall, Walter Perley, Boston.
 Halloran, James Ambrose, Boston.
 Hallowell, J. Mott, Boston.
 Hamilton, Samuel K., Boston.
 Hamlin, Charles S., Boston.
 Hammond, John C., Northampton.
 Hannigan, John E., Boston.
 †Harris, Henry F., Worcester.

Hartstone, Walter, Boston.
 Haskins, David Greene, Jr., Boston.
 Hayes, Alfred S., Boston.
 Hayes, William Allen, Boston.
 Heard, Nathan, Boston.
 Hellier, Charles E., Boston.
 Hemenway, Alfred, Boston.
 Herbert, John, Boston.
 Hersey, Arthur U., Boston.
 Hight, Clarence Albert, Boston.
 Hill, Arthur Dehon, Boston.
 Hill, Donald Mackay, Boston.
 Hills, George E., Boston.
 Hitch, Mayhew R., New Bedford.
 Hitchcock, Loranus E., Boston.
 Hitchcock, Wm. Harold, Boston.
 Hoague, Theodore, Boston.
 Holland, Bert E., Boston.
 Holliday, Guy H., Boston.
 Homans, Robert, Boston.
 Hooper, S. Henry, Boston.
 Howe, Elmer P., Boston.
 Hubbard, Harry, Newton Center.
 Hudson, Samuel H., Boston.
 Hughes, John T., Boston.
 Hurlbutt, Henry F., Boston.
 Hutchings, Henry M., Boston.
 Innes, Charles H., Boston.
 Irwin, Richard W., Northampton.
 Jacobs, Philip W., Boston.
 Jaquinth, Harry J., Boston.
 Jennings, Andrew J., Fall River.
 Johnson, Benjamin N., Boston.
 Johnson, Melvin M., Boston.
 Johnson, Reginald H., Boston.
 Jones, Boyd B., Boston.
 Jones, Nathaniel N., Boston.
 Jones, Stephen R., Boston.
 Jordan, Michael J., Boston.
 Joalin, Ralph Edgar, Boston.
 Joyner, Herbert C., Great Barrington.
 Katz, Maurice L., Worcester.
 Keating, Patrick M., Jamaica Plain.
 Kellen, William V., Cohasset.
 Kelley, James Edward, Boston.
 Kelly, Thomas, Boston.
 Kenny, Thomas J., Boston.
 †Kimball, Benjamin, Boston.
 Kimball, George Everett, Boston.
 King, C. C., Brockton.
 King, Henry A., Springfield.
 Knight, Robert A., Springfield.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Ladd, Nathaniel W., Boston.
 Lasker, Henry, Springfield.
 Lawton, Frederick, Boston.
 Leahy, John P., Boston.
 Lewis, Wm. H., Boston (Washington, D. C.)
 Leverett, George V., Boston.
 Leveroni, Frank, Boston.
 Lewenberg, Solomon, Boston.
 Lilley, Charles S., Lowell.
 Lincoln, Alexander, Boston.
 Lincoln, Arba N., Fall River.
 Linscott, Frank K., Boston.
 Little, Amos R., Boston.
 Long, Henry C., Boston.
 Lord, Arthur, Boston.
 Loring, Victor J., Boston.
 Lothrop, Thornton K., Jr., Boston.
 Lowell, James A., Boston.
 Lowell, John, Boston.
 Macleod, William A., Boston.
 †Macy, John E., Boston.
 Magenis, James P., Boston.
 Malone, Dana, Greenfield.
 †Marble, Frederick P., Lowell.
 Marden, Oscar A., Boston.
 Mason, John W., Northampton.
 May, Marcus B., Boston.
 †Metzler, Curtis G., Boston.
 Michelman, Joseph, Boston.
 †Moore, Fred. W., Boston.
 Morse, Robert M., Boston.
 Morse, William A., Boston.
 Morton, James M., Jr., Fall River.
 Morton, Marcus, Boston.
 Mowatt, Fred W., Boston.
 Murchie, Guy, Boston.
 Murray, Wm. F., Boston.
 Myers, James J., Boston.
 Myrick, N. Sumner, Boston.
 McNarney, John W., Boston.
 McClench, William W., Springfield.
 McClennen, Edward F., Boston.
 McConnell, James E., Boston.
 McDonough, Charles A., Boston.
 McEvoy, John W., Lowell.
 McInnes, Edwin G., Boston.
 McLaughlin, John D., Boston.
 Nay, Frank N., Boston.
 Newell, James M., Boston.
 Niles, William H., Lynn.
 Norwood, C. Augustus, Boston.

Noxon, John F., Pittsfield.
 Nutter, George R., Boston.
 O'Connell, Joseph F., Boston.
 O'Donnell, James E., Lowell.
 Ogden, Hugh W., Boston.
 Olmstead, James M., Boston.
 Olney, Richard, Boston.
 Ong, Eugene W., Boston.
 †Ordway, Gilbert F., Boston.
 Osgood, William N., Boston.
 Parker, Herbert, Boston.
 Parker, Philip S., Boston.
 †Parker, Robert Chapin, Westfield.
 Parker, William C., New Bedford.
 Partridge, Olcott Osborn, Boston.
 Payson, Edward P., Boston.
 Peabody, Francis, Boston.
 Pearl, Francis H., Haverhill.
 Pease, Frank Alvin, Fall River.
 Pelletier, Joseph C., Boston.
 †Perkins, Edward C., Boston.
 Perkins, Thomas N., Boston.
 Pevey, Gilbert A. A., Boston.
 Phillips, Benjamin, Boston.
 Phillips, Arthur S., Fall River.
 †Phipps, George V., Boston.
 Pickering, Henry Goddard, Boston.
 Pickman, John J., Lowell.
 Pillsbury, Albert E., Boston.
 Pinkerton, Alfred S., Worcester.
 †Poediger, George A., Pittsfield.
 Poor, John B., Brookline.
 Pound, Roscoe, Cambridge.
 Powers, Samuel L., Boston.
 Proctor, Thomas W., Boston.
 Pugh, James Thomas, Boston.
 Pulsifer, Geo. Royal, Boston.
 Putnam, James L., Boston.
 Putnam, William L., Boston.
 Quinby, William, Boston.
 Quincy, Josiah H., Boston.
 Rackemann, Charles Sedgwick, Boston.
 Rackemann, Felix, Boston.
 Ranney, Fletcher, Boston.
 Raymond, John Marshall, Salem.
 Raymond, Robert F., Boston.
 †Read, Charles C., Boston.
 Reynolds, John J., Boston.
 Rice, John C., Boston.
 Richards, Albin L., Boston.
 Richardson, Henry T., Boston.
 Richardson, W. K., Boston.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- Roberts, George L., Boston.
 †Robson, Stuart M., Springfield.
 Rogers, Foster, Boston.
 Rogers, George Lyman, Boston.
 Rubenstein, Philip, Boston.
 Rugg, Arthur P., Worcester.
 Ruggles, Daniel B., Boston.
 Russell, Charles A., Gloucester.
 Russell, J. Porter, Boston.
 Sabine, William, Boston.
 Saltonstall, Richard M., Boston.
 Saunders, Charles G., Boston.
 Saville, Huntington, Boston.
 Sawtell, Frank M., Boston.
 Sawyer, Alfred P., Lowell.
 Saxe, John W., Boston.
 Scafe, Lauriston L., Boston.
 Schofield, William, Malden.
 †Scully, Edward T., Pittsfield.
 Sears, George B., Salem.
 Sears, Wm R., Boston.
 Shackford, Samuel B., Boston.
 Shattuck, Charles E., Boston.
 Shattuck, Henry Lee, Boston.
 Sheehan, Jos. A., Boston.
 Sheldon, Henry N., Boston.
 Shepard, Harvey N., Boston.
 Sherman, Roland H., Boston.
 †Silverman, Samuel S., Boston.
 Simpson, Frank Leslie, Boston.
 Sisk, James H., Lynn.
 Slater, John S., Boston.
 Slocum, Edward T., Pittsfield.
 Slocum, Winfield S., Boston.
 Smith, Arthur Thad., Boston.
 Smith, Fitz-Henry, Jr., Boston.
 Smith, Frank Bulkeley, Worcester.
 Smith, Henry Hyde, Boston.
 Smith, Jeremiah, Jr., Boston.
 Sohler, Wm. D., Boston.
 Southard, Louis C., Boston.
 Sprague, Charles H., Boston.
 Spring, Arthur L., Boston.
 Stanton, Horace B., Boston.
 Stanwood, Philip C., Boston.
 †Stebbins, Charles H., Boston.
 Stiles, James A., Gardner.
 †Stockton, Howard, Jr., Boston.
 Stone, Charles B., West Acton.
 †Stone, Edward C., Boston.
 Stone, Frederic M., Boston.
 Stone, Robert B., Boston.
 Stone, Willmore B., Springfield.
 Storey, Moorfield, Boston.
 Storey, Richard C., Boston.
 Stratton, Charles E., Boston.
 Strout, Henry F., Boston.
 †Sturgis, Roger F., Boston.
 Sullivan, James W., Lynn.
 Sullivan, William B., Boston.
 Swain, Roger Dyer (Boston), Cambridge.
 Swan, Charles Herbert, Boston.
 Sweetser, George A., Boston.
 Swift, James Morcus, Boston.
 Taft, George S., Worcester.
 Taintor, Giles, Boston.
 Thayer, Ezra R., Cambridge.
 Thayer, Henry Holmes, Worcester.
 Thompson, William O., Boston.
 Thorndike, John Larkin, Boston.
 Tisdale, Archibald R., Boston.
 Tucker, George F., Boston.
 Tyler, Charles H., Boston.
 Tyler, Marion L., Boston.
 †Underwood, W. Orison, Boston.
 †Upton, Eugene C., Boston.
 Vahey, James H., Boston.
 Van Everen, Horace, Boston.
 Vaughan, Ernest H., Worcester.
 Vaughan, Henry G., Boston.
 Vaughan, Wm. W., Boston.
 Voorhees, Harvey C., Boston.
 Wait, William Cushing, Boston.
 Wakefield, John Lathrop, Boston.
 Wambaugh, Eugene, Cambridge.
 Wardner, G. Philip, Boston.
 Ware, Charles Eliot, Fitchburg.
 Warner, Henry E., Boston.
 Warner, Joseph B., Boston.
 †Warner, Milton B., Pittsfield.
 Waters, Asa W. (Philadelphia, Pa.), Cambridge.
 Waters, Bertram G., Boston.
 Wead, Leslie C., Boston.
 Weed, Alonzo R., Boston.
 Wellman, Arthur H., Boston.
 Weston, Robert Dickson, Boston.
 Weston, Thomas, Jr., Boston.
 Wharton, Wm. F., Boston.
 †Wheeler, Henry, Boston.
 Whipple, Sherman L., Boston.
 White, Alden P., Salem.
 White, Frank Owen, Boston.
 White, Luther, Chicopee.

† Elected by Executive Committee between meetings, 1911-12.

White, Moses Perkins, Boston.
 Whiteside, Alexander, Boston.
 Whitman, Edmund A., Boston.
 Whittlesey, John J., Pittsfield.
 Wier, Frederick N., Lowell.
 Wiles, Thomas L., Boston.
 Williams, David W., Boston.
 †Williams, Harold P., Boston.
 Williston, Samuel (Cambridge), Belmont.
 Wilson, Butler R., Boston.
 Wilson, George L., Boston.
 Wood, L. Elmer, Fall River.
 Wright, Charles H., Pittsfield.
 Wrightington, S. R., Boston.
 Wyman, Henry A., Boston.
 Young, Owen D., Boston.
 Young, Stephen Emerson, Boston.
 Youngman, William S., Boston.

MEXICO.

Warner, James Harold, Mexico City.

MICHIGAN.

Antisdel, John P., Detroit.
 Arthur, Jesse, Battle Creek.
 Baldwin, Clark E., Adrian.
 Ball, Dan H., Marquette.
 Bancker, Enoch, Jackson.
 Barlow, Burt E., Coldwater.
 Barnett, James F., Grand Rapids.
 Bates, George W., Detroit.
 Bates, Henry M., Ann Arbor.
 Beaumont, John W., Detroit.
 Bissell, John H., Detroit.
 Black, Cyrenius P., Lansing.
 †Boltwood, Lucius, Grand Rapids.
 Boudeman, Dallas, Kalamazoo.
 Brewster, James H., Ann Arbor.
 Brownson, Robert M., Detroit.
 †Buchanan, Claude R., Grand Rapids.
 Bulkley, Harry Conant, Detroit.
 Byers, I. W., Iron River.
 Campbell, Charles H., Detroit.
 Campbell, Henry M., Detroit.
 †Campbell, James H., Grand Rapids.
 Carpenter, William L., Detroit.
 Carton, John J., Flint.
 Casgrain, Charles W., Detroit.
 Chappell, Fred L., Kalamazoo.
 Choate, Ward N., Detroit.
 Clark, Joseph H., Detroit.
 Corliss, John B., Detroit.
 Covell, George G., Traverse City.
 Danaher, Michael B., Lodiington.
 Denison, Arthur C., Grand Rapids.
 Dickinson, Julian G., Detroit.
 Donnelly, John C., Detroit.
 Douglas, Samuel T., Detroit.
 Driggs, Frederick E., Detroit.
 Durand, Lorenzo T., Saginaw, E. S.
 Earl, Otis A., Kalamazoo.
 †Eldredge, Arch Bishop, Marquette.
 Engelhard, Charles, Detroit.
 Fellows, Grant, Hudson.
 Fuller, Jay, Detroit.
 †Goddard, Edwin C., Ann Arbor.
 Graves, Henry B., Detroit.
 Gray, Robert T., Detroit.
 Gray, William J., Detroit.
 Groesbeck, Alex. J., Jr., Detroit.
 Hanchett, Benton, Saginaw.
 †Harley, Herbert, Manistee.
 Harward, Frederick T., Detroit.
 Hatch, Harvey B., Marquette.
 †Hatch, Reuben, Grand Rapids.
 Hatch, William B., Ypsilanti.
 Henderson, Robert C., Norway.
 †Hixson, Virgil L., Manistique.
 †Hooper, Joseph Lawrence, Battle Creek.
 Hutchins, Harry B., Ann Arbor.
 Hyde, Wesley W., Grand Rapids.
 January, William L., Detroit.
 Jenkins, Frank E., Oxford.
 Jones, Arthur, Detroit.
 Joslyn, Charles D., Detroit.
 Keena, James T., Detroit.
 Keeney, Willard F., Grand Rapids.
 Kellie, Ronald Scott, Detroit.
 Kent, Charles A., Detroit.
 Kingsley, Willard, Grand Rapids.
 Knappen, Loyal E., Grand Rapids.
 Knappen, Stuart E., Grand Rapids.
 Lacy, Arthur J., Detroit.
 †Ladd, Sanford W., Detroit.
 †Lane, Victor H., Ann Arbor.
 Lightner, Clarence A., Detroit.
 Lillie, Walter L., Grand Haven.
 Lockwood, Harry A., Detroit.
 Lyster, Henry L., Detroit.
 †Maher, Edgar A., Grand Rapids.
 Manchester, William C., Detroit.
 †May, James D., Detroit.
 †Mead, Frank D., Escanaba.
 †Mechem, George W., Battle Creek.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Miller, Albert Edward, Marquette.
 Miller, Sidney T., Detroit.
 Millis, Wade, Detroit.
 †Moody, Paul B., Detroit.
 Moore, Joseph B., Lansing.
 †McAllister, James T., Grand Rapids.
 McHugh, Philip A., Detroit.
 †McKnight, Wm. F., Grand Rapids.
 McMillan, Philip H., Detroit.
 †Norris, Herbert M., Ironwood.
 Norris, Mark, Grand Rapids.
 †O'Brien, Patrick H., Laurium.
 O'Brien, Thomas J., Grand Rapids.
 Ostrander, Russell C., Lansing.
 Oxtoby, James V., Detroit.
 Oxtoby, Walter E., Detroit.
 Palmer, Jonathan, Jr., Detroit.
 †Parker, Ralzemond A., Detroit.
 Patterson, John H., Pontiac.
 Peter, James B., Saginaw.
 Reasoner, James M., Lansing.
 Rees, Allen F., Houghton.
 Robertson, Charles R., Detroit.
 Robson, Frank E., Detroit.
 Rood, John B., Ann Arbor.
 Rosenberg, Louis J., Detroit.
 Russell, Henry, Detroit.
 †Ryall, A. H., Escanaba.
 Sabin, Leland H., Battle Creek.
 Selling, Bernard B., Detroit.
 Sloman, Adolph, Detroit.
 †Smith, Hal. H., Detroit.
 †Smith, Lawrence W., Ionia.
 Smith, William M., St. Johns.
 Stivers, Frank A., Ann Arbor.
 Stoddard, Elliott J., Detroit.
 Stone, John G., Houghton.
 Stone, John W., Lansing.
 Sullivan, Frank P., Sault Ste. Marie.
 Swift, Charles M., Detroit.
 Taggart, Edward, Grand Rapids.
 Taggart, Ganson, Grand Rapids.
 Thornton, Howard A., Grand Rapids.
 †Tuttle, Arthur J., Detroit.
 Weadock, Thomas A. E., Detroit.
 Whittemore, James, Detroit.
 Wilgus, Horace L., Ann Arbor.
 Wilkins, Charles T., Detroit.
 Williams, Arthur B., Battle Creek.
 Wilson, Charles M., Grand Rapids.
 Wolcott, Frank T., Port Huron.

Wolf, Gustave A., Grand Rapids.
 Woodruff, Charles M., Detroit.
 Wurzer, Louis C., Detroit.
 Yerkes, George B., Detroit.

MINNESOTA.

Abbott, Howard S., Minneapolis.
 Abbott, Howard T., Duluth.
 †Adams, Frank D., Duluth.
 †Allen, George J., Rochester.
 †Arctander, Ludwig, Minneapolis.
 Armstrong, James D., St. Paul.
 Bailey, William D., Duluth.
 Baldwin, Albert, Duluth.
 Barrows, Morton, St. Paul.
 Baxter, John T., Minneapolis.
 Baxter, Luther L., Fergus Falls.
 Bechhoefer, Charles, St. Paul.
 Best, James I., Minneapolis.
 †Boardman, R. T., Minneapolis.
 Booth, Wilbur F., Minneapolis.
 Briggs, Asa G., St. Paul.
 Bright, Alfred H., Minneapolis.
 Bright, Michael S., Duluth.
 Brooks, Frank C., Minneapolis.
 Brown, Leslie L., Winona.
 Brown, Rome G., Minneapolis.
 Buffington, Edwin D., Stillwater.
 Buffington, George W., Minneapolis.
 Bunn, Charles W., St. Paul.
 Bunn, George L., St. Paul.
 Burchard, John E., St. Paul.
 Burr, Stiles W., St. Paul.
 Butler, Pierce, St. Paul.
 †Caldwell, Chester L., St. Paul.
 Cant, William A., Duluth.
 Cash, Daniel G., Duluth.
 Chase, Nathan H., Minneapolis.
 Child, S. R., Minneapolis.
 Childs, Clarence H., Minneapolis.
 Chrisman, Charles E., Ortonville.
 Clapp, Harvey S., Duluth.
 Clapp, Newel H., St. Paul.
 Clark, Homer P., St. Paul.
 Cobb, Albert C., Minneapolis.
 Comfort, F. V., Stillwater.
 Congdon, Chester A., Duluth.
 Cotton, Joseph B., Duluth.
 Courtney, Henry A., Duluth.
 Crane, Jay W., Minneapolis.
 †Crassweller, Arthur H., Duluth.

†Elected by Executive Committee between meetings, 1911-12.

‡Elected by Association at annual meeting, 1912.

- Crosby, Wilson G., Duluth.
 Cutting, William H., Buffalo.
 Daley, Andrew J., Laverne.
 d'Autremont, Charles, Jr., Duluth.
 †De LaMotte, J., Duluth.
 Denégre, James D., St. Paul.
 Deutsch, Henry, Minneapolis.
 Dfbell, Homer B., Duluth.
 Dickey, J. M., St. Paul.
 Dickinson, H. D., Minneapolis.
 Dille, John I., Minneapolis.
 Dodge, Fred B., Minneapolis.
 Douglas, Marion, Duluth.
 †Dunn, Howard H., Albert Lea.
 Durment, Edmund S., St. Paul.
 Duxbury, F. A., Caledonia.
 Duxbury, W. R., St. Paul.
 Dwinell, W. S., Minneapolis.
 Eckstein, Joseph A., New Ulm.
 Ewing, Arthur W., Madison.
 Ewing, Frank H., St. Paul.
 Farnham, Charles W., St. Paul.
 Finney, A. C., Minneapolis.
 Fish, Daniel, Minneapolis.
 †Fitzpatrick, Thomas C., St. Paul.
 Flannery, George P., Minneapolis.
 Flannery, Henry C., Minneapolis.
 Fomes, C. A., Montevideo.
 Fowler, Charles R., Minneapolis.
 †Frankel, Hiram D., St. Paul.
 Frankel, Louis R., St. Paul.
 French, Lafayette, Austin.
 Furst, William, Minneapolis.
 †Galbraith, John P., St. Paul.
 Gale, Edward C., Minneapolis.
 Gilman, L. C., St. Paul.
 †Gjerset, Oluf, Montevideo.
 Grau, Victor H., Duluth.
 Greene, Warren E., Duluth.
 †Guesmer, Arnold L., Minneapolis.
 †Hagen, Eric O., Crookston.
 Halbert, Clarence W., St. Paul.
 Halbert, Hugh T., St. Paul.
 Hall, Albert H., Minneapolis.
 Hallam, Oscar, St. Paul.
 Hanley, Martin Franklin, Minneapolis.
 Hendricks, John Albert, Foston.
 †Heino, John R., Duluth.
 Hubachek, Frank R., Minneapolis.
 †Hubachek, Louis A., Minneapolis.
 †Ingersoll, George, Duluth.
 Jackson, Anson B., Minneapolis.
 Jayne, Trafford N., Minneapolis.
 †Jenks, James E., St. Cloud.
 Jenswold, John, Jr., Duluth.
 Kaercher, Aaron Benj., Ortonville.
 Kellogg, Frank B., St. Paul.
 Kennedy, Richard L., St. Paul.
 Kerr, William A., Minneapolis.
 Koon, Martin B., Minneapolis.
 Korns, E. B., Tracy.
 Lancaster, William A., Minneapolis.
 Larimore, John A., Minneapolis.
 Larrabee, Frank D., Minneapolis.
 Larson, Oscar J., Duluth.
 Latham, F. E., Howard Lake.
 Laybourn, C. G., Minneapolis.
 Lees, Edward, Winona.
 Lewis, Olin B., St. Paul.
 Lightner, William H., St. Paul.
 Lind, John, Minneapolis.
 Lindley, Erasmus C., St. Paul.
 Marshall, Alexander, Duluth.
 †Martin, James M., Minneapolis.
 Mason, Alfred F., St. Paul.
 †Megaarden, Philip T., Minneapolis.
 †Meighen, John F. D., Albert Lea.
 Mercer, Hugh V., Minneapolis.
 †Merrill, E. B., Duluth.
 Miller, Clarence B. (Washington, D. C.), Duluth.
 Mitchell, Oscar, Duluth.
 Mitchell, William D., St. Paul.
 Monohan, James, Minneapolis.
 Moonan, John, Waseca.
 Moore, Albert R., St. Paul.
 Morgan, Henry A., Albert Lea.
 Morphy, E. Howard, St. Paul.
 McClenahan, William S., Brainerd.
 McDonald E. E., Bemidji.
 McGee, J. F., Minneapolis.
 McKenzie, John, Minneapolis.
 †McLaughlin, Patrick J., St. Paul.
 Nye, Carroll A., Moorhead.
 O'Brien, James Edward, Minneapolis.
 †Olds, Robert Edwin, St. Paul.
 Osborne, James W., Ely.
 Paige, James, Minneapolis.
 †Park, Herbert T., Minneapolis.
 Patterson, Elmer C., Minneapolis.
 Paul, A. C., Minneapolis.
 Penney, R. L., Minneapolis.
 Phelps, H. H., Duluth.
 Powell, Ransom J., Minneapolis.
 Prendergast, Edmund A., Minneapolis.

† Elected by Executive Committee between meetings, 1911-12.

† Elected by Association at annual meeting, 1912.

Price, Frank F., Grand Rapids.
 Qvale, G. E., Willmar.
 Randall, Henry E., St. Paul.
 Rea, S. C., Laverne.
 †Richardson, Harris, St. Paul.
 Roberts, Harlan P., Minneapolis.
 Roberts, William P., Minneapolis.
 Robertson, James, Minneapolis.
 Rockwood, Chelsea J., Minneapolis.
 †Rosa, Guy W. C., Duluth.
 Sanborn, Edward P., St. Paul.
 Sanborn, Walter H., St. Paul.
 Schmidt, Philip C., Duluth.
 Seever, George W., Minneapolis.
 Selover, George H., Minneapolis.
 Severance, Cordenio A., St. Paul.
 Shaw, Frank W., Minneapolis.
 Shearer, James D., Minneapolis.
 Sheean, James B., St. Paul.
 Simpson, David F., Minneapolis.
 Smith, Edward E., Minneapolis.
 Smith, Lyndon A., Montevideo.
 Snyder, F. B., Minneapolis.
 Steele, John H., Minneapolis.
 †Stinchfield, Frederick H., Minneapolis.
 Stringer, Edward C., St. Paul.
 Stryker, John E., St. Paul.
 Sullivan, Francis W., Duluth.
 †Swan, James G., Minneapolis.
 Tawney, James A., Winona.
 Taylor, Benjamin, Mankato.
 Thian, Louis R., Minneapolis.
 Thompson, Charles T., Minneapolis.
 †Thurston, Edward S., Minneapolis.
 Thygeson, N. M., Minneapolis.
 Tiffany, Francis B., St. Paul.
 Tighe, Ambrose, St. Paul.
 Traxler, Charles J., Minneapolis.
 Tryon, Charles J., Minneapolis.
 Ueland, A., Minneapolis.
 Vance, William R., Minneapolis.
 Walte, Edward F., Minneapolis.
 Ware, John Roland, Minneapolis.
 Washburn, Jed L., Duluth.
 Watson, James T., Duluth.
 Webber, Marshall B., Winona.
 Well, Jonas, Minneapolis.
 Wheelwright, John O. P., Minneapolis.
 Whelan, Ralph, Minneapolis.
 White, William G., St. Paul.
 Williams, John G., Duluth.
 Williamson, James F., Minneapolis.

†Willis, John W., St. Paul.
 Wilson, Coryate S., Duluth.
 Wilson, George P., Minneapolis.
 Wright, Arthur W., Austin.
 Wyman, G. H., Anoka.
 Young, Edward B., St. Paul.
 Zollman, F. W., St. Paul.

MISSISSIPPI

Allen, John, Tupelo.
 Anderson, W. D., Tupelo.
 †Andrews, L. C., Oxford.
 †Barnett, D. R., Yazoo City.
 Bowers, E. J., Gulfport.
 Bozeman, Albert S., Meridian.
 Brunini, John B., Vicksburg.
 Campbell, Robert B., Greenville.
 Clifton, Wiley H., Aberdeen.
 †Cutrer, J. W., Clarksdale.
 Davis, James Edgar, Hattiesburg.
 †Davis, John A., Kosciusko.
 Dunn, C. C., Meridian.
 Fox, A. F., West Point.
 Farley, L. J., Oxford.
 †Flowers, James N., Jackson.
 †Frierson, John F., Columbus.
 Greaves, H. B., Canton.
 †Green, Marcellus, Jackson.
 †Hannah, Thomas C., Hattiesburg.
 Hirsch, J., Vicksburg.
 Houston, David W., Aberdeen.
 Howry, Charles B. (Washington, D. C.),
 Oxford.
 †Jacobson, Gabe, Meridian.
 †Johnston, O. G., Clarksdale.
 †Jones, P. Z., Brookhaven.
 †Lamb, Wm. John, Corinth.
 Landau, Moses David, Vicksburg.
 †May, Geo. Williams, Jackson.
 Mayes, Robert B., Jackson.
 Miller, Robert N., Hazlehurst.
 Moody, Cary C., Indianola.
 †McClurg, Monroe, Greenwood.
 McDonald, Will T., Bay St. Louis.
 †McDowell, James R., Jackson.
 McLaurin, R. L., Vicksburg.
 †McMorrhough, G. H., Lexington.
 Percy, Leroy, Greenville.
 Peyton, Frank M., Jackson.
 Powell, William H., Canton.
 Robertson, V. Otis, Jackson.
 Rose, A. J., Greenville.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Sanders, J. O. S., Jackson.
 Scott, Charles, Rosedale.
 Sexton, James S., Hazlehurst.
 Shanda, A. W., Sardis.
 Somerville, Thomas H., Oxford.
 †Stevens, J. Morgan, Hattiesburg.
 Stovall, A. T., Okolona.
 †Stowe, William Evans, Oxford.
 Thompson, Robert H., Jackson.
 Travis, S. E., Hattiesburg.
 Welch, W. S., Laurel.
 Wells, Ben H., Jackson.
 Woods, Edgar H., Rosedale.

MISSOURI.

Abbott, A. L., St. Louis.
 Allen, Charles Clafin, St. Louis.
 Allen, Clifford B., St. Louis.
 Anderson, Thomas L., St. Louis.
 †Andrews, Sidney F., St. Louis.
 Ashley, Henry De L., Kansas City.
 †Augert, Eugene H., St. Louis.
 Babbitt, Byron F., St. Louis.
 Bakewell, Paul, St. Louis.
 Ball, R. E., Kansas City.
 Barclay, Shepard, St. Louis.
 †Barth, Irvin V., St. Louis.
 Bartlett, Edmund Morgan, Kansas City.
 Bates, Charles W., St. Louis.
 Beck, George F., St. Louis.
 †Becker, Wm. Dee, St. Louis.
 Bishop, John E., St. Louis.
 Black, Arthur G., Kansas City.
 Blair, Albert, St. Louis.
 Blevins, John A., St. Louis.
 †Block, George M., St. Louis.
 Blodgett, Henry W., St. Louis.
 Bond, Sterling P., St. Louis.
 Bond, Thomas, St. Louis.
 Botsford, James S., Kansas City.
 Bowersock, Justin D., Kansas City.
 Britton, Roy F., St. Louis.
 Brown, R. A., St. Joseph.
 Bryan, P. Taylor, St. Louis.
 Bryson, Joseph M., St. Louis.
 Buder, Gustavus A., St. Louis.
 Buder, Oscar E., St. Louis.
 Carr, James A., St. Louis.
 Carter, Frank W., St. Louis.
 Charles, Benjamin H., St. Louis.
 Clarke, Enos, St. Louis.
 Cobbs, Thomas H., St. Louis.

Cochran, Alexander G., St. Louis.
 Coles, Walter D., St. Louis.
 Collins, Charles Cummings, St. Louis.
 Collins, Robert E., St. Louis.
 Comer, Charles P., St. Louis.
 †Cullen, P. H., St. Louis.
 Curtis, William S., St. Louis.
 D'Arcy, Edward, St. Louis.
 Davis, J. Lionberger, St. Louis.
 Decker, Gustav F., St. Louis.
 Dickson, Joseph, Jr., St. Louis.
 Donaldson, William R., St. Louis.
 Donaldson, William R., Jr., St. Louis.
 Donnell, Forrest C., St. Louis.
 Douglas, Walter B., St. Louis.
 Dyer David P., St. Louis.
 Early, Marlon C., St. Louis.
 †Edwards, Verne D., Kansas City.
 †Eggers, Theodore C., St. Louis.
 Eliot, Edward C., St. Louis.
 Ellison, Edward D., Kansas City.
 Ellison, James, Kansas City.
 Estep, Thomas B., St. Louis.
 Ferriss, Franklin, St. Louis.
 †Ferriss, Henry T., St. Louis.
 Fordyce, Samuel W., Jr., St. Louis.
 Fox, Charles J., St. Louis.
 Garesche, Vital W., St. Louis.
 Garvin, William Everett, St. Louis.
 Gates, Edward P., Independence.
 Gentry, North T., Columbia.
 German, Charles W., Kansas City.
 Gossett, Alfred N., Kansas City.
 Grant, Lee W., St. Louis.
 Greensfelder, Bernard, St. Louis.
 Grossman, Emanuel M., St. Louis.
 Hafl, Delbert J., Kansas City.
 Hagerman, Frank, Kansas City.
 Hagerman, James, St. Louis.
 Hagerman, James, Jr., St. Louis.
 Hagerman, Lee W., St. Louis.
 †Hall, Claud D., St. Louis.
 Hamilton, Henry A., St. Louis.
 Hancock, W. Scott, St. Louis.
 Harkless, James H., Kansas City.
 †Harvey, Thomas B., St. Louis.
 Higdon, John C., St. Louis.
 Hinton, Edward W., Columbia.
 Histed, Clifford, Kansas City.
 Hitchcock, George C., St. Louis.
 †Hogan, Granville, St. Louis.
 Holliday, John Hodgman, St. Louis.

† Elected by Executive Committee between meetings, 1911-12.

† Elected by Association at annual meeting, 1912.

- Holliday, Jos. G., St. Louis.
 Holmes, J. M., St. Louis.
 Hough, Warwick M., St. Louis.
 †Hutchings, Chas. Frederick, Kansas City.
 Ingraham, Robert J., Kansas City.
 Johnson, Charles P., St. Louis.
 Johnson, George S., St. Louis.
 †Johnson, John D., St. Louis.
 Johnson, William T., Kansas City.
 Jones, James C., St. Louis.
 Jones, Richard A., St. Louis.
 Jourdan, Morton, St. Louis.
 Judson, Frederick N., St. Louis.
 Kehr, Edward C., St. Louis.
 Keyser, William W., St. Louis.
 †King, James E., St. Louis.
 Kirby, Daniel Noyes, St. Louis.
 Krauthoff, Edwin A., Kansas City.
 Ladd, Sanford B., Kansas City.
 †Lawler, Clement A., Kansas City.
 Lawson, John D., Columbia.
 Lee, John F., St. Louis.
 Leahy, John S., St. Louis.
 Lehmann, Fred W., St. Louis.
 Lehmann, Sears, St. Louis.
 Lionberger, Isaac H., St. Louis.
 Lucas, O. A., Kansas City.
 Lyon, Montague, St. Louis.
 Lyons, Martin, Kansas City.
 Mahan, George A., Hannibal.
 Major, Elliott W., Jefferson City.
 Michaels, Wm. C., Kansas City.
 Mix, George E., St. Louis.
 Moloney, Robert E., St. Louis.
 †McBaine, J. P., Columbia.
 McChesney, S. P., St. Louis.
 McDonald, Jesse, St. Louis.
 McLeod, W. D., Kansas City.
 †McPheeters, Thomas S., St. Louis.
 Nagel, Charles (Washington, D. C.), St. Louis.
 Nardin, William T., St. Louis.
 New, Alexander, Kansas City.
 Norton, Albert D., St. Louis.
 Orr, Isaac H., St. Louis.
 Orrick, Allen C., St. Louis.
 Ottoly, L. Frank, St. Louis.
 Overall, John H., St. Louis.
 Pattison, Everett W., St. Louis.
 †Paxton, John G., Kansas City.
 †Pearce, Stanley D., St. Louis.
 †Peter, James W. S., Kansas City.
 Phillips, John F., Kansas City.
 Platt, Wm. H. H., Kansas City.
 Pierce, Thomas M., St. Louis.
 Pike, Vinton, St. Joseph.
 Polk, Charles M., St. Louis.
 Powell, Elmer N., Kansas City.
 Powell, Walter A., Kansas City.
 Rasmieur, Theodore, St. Louis.
 Reynolds, George D., St. Louis.
 Reynolds, George Vogdes, St. Louis.
 Reynolds, Thomas H., Kansas City.
 Robbins, Alexander H., St. Louis.
 Robert, Douglas W., St. Louis.
 Robertson, George, Mexico.
 Rombauer, Edgar R., St. Louis.
 Rombauer, Roderick E., St. Louis.
 Roszelle, Frank F., Kansas City.
 Ryan, O'Neill, St. Louis.
 †Saunders, Walter H., St. Louis.
 Schaich, John G., Kansas City.
 Schnurmacher, Benjamin., St. Louis.
 Schofield, F. L., Hannibal.
 †Senn, G. William, St. Louis.
 Shepley, Arthur B., St. Louis.
 Shields, George H., St. Louis.
 Small, Charles E., Kansas City.
 Smith, Luther Ely, St. Louis.
 Spencer, Selden P., St. Louis.
 Stewart, Alphonso Chase, St. Louis.
 Sturdevant, Willard L., St. Louis.
 Swarts, Solomon L., St. Louis.
 Tausig, James, St. Louis.
 Taylor, Perry Post, St. Louis.
 Taylor, Seneca N., St. Louis.
 †Thacher, John H., Kansas City.
 Thomas, Wm. O., Kansas City.
 Thompson, William B., St. Louis.
 Titus, Frank, Kansas City.
 Vierling, Frederick, St. Louis.
 Vineyard, J. J., Kansas City.
 Wagner, Hugh K., St. Louis.
 Walther, Lambert E., St. Louis.
 Watts, Millard F., St. Louis.
 Werner, Percy, St. Louis.
 West, Samuel H., St. Louis.
 Wheelan, Joseph, St. Louis.
 White, Edward J., Kansas City.
 White, Thomas W., St. Louis.
 Willey, Lebbeus R. (Mexico City, Mexico), St. Louis.
 Willey, Xenophon P., St. Louis.
 †Williams, C. B., St. Louis.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Williams, James C., Kansas City.
 Williams, R. P., St. Louis.
 †Williams, Tyrell, St. Louis.
 Williamson, John L., Kansas City.
 Walzenus, Fred A., St. Louis.
 Withrow, James E., St. Louis.
 Woerner, Wm. F., St. Louis.
 Wood, Benjamin A., St. Louis.
 Wood, John M., St. Louis.

MONTANA.

Brantley, Theodore, Helena.
 Clark, W. A., Virginia City.
 Day, E. C., Helena.
 Farr, George W., Miles City.
 Foot, C. H., Kalispell.
 Goddard, O. Fletcher, Billings.
 Hartman, Charles S., Bozeman.
 Hartman, W. S., Bozeman.
 Harwood, Edgar N., Butte.
 Holloway, William L., Helena.
 Johnston, W. M., Billings.
 Kelley, C. F., Butte.
 †Mathews, Thomas J., Roundup.
 Noffsinger, W. N., Kalispell.
 Pemberton, William Y., Helena.
 †Pierson, George W., Billings.
 Pomeroy, Charles W., Kalispell.
 Pray, Charles N., Fort Benton.
 Rodgers, William B., Butte.
 Roote, Jesse Bryan, Butte.
 Ross, David, Kalispell.
 Shelton, George F., Butte.
 Smith, D. F., Kalispell.
 Walsh, James A., Helena.
 Walsh, Thomas J., Helena.
 Wood, Sterling M., Miles City.

NEBRASKA.

Allen, William V., Madison.
 Barnes, John B., Norfolk.
 Baxter, Irving F., Omaha.
 Beeler, Joseph G., North Platte.
 Blackburn, Thomas W., Omaha.
 Boesche, Herman G., Omaha.
 Breckenridge, Ralph W., Omaha.
 Brogan, Francis A., Omaha.
 Brome, Harrison C., Omaha.
 †Brown, Norris, Omaha.
 Conant, Ernest B., Lincoln.
 Cowin, John C., Omaha.
 Crofoot, Lodowick F., Omaha.
 Davidson, Samuel P., Tecumseh.

Dryden, John N., Kearney.
 Dundey, Charles L., Omaha.
 Dunham, Braddock H., Omaha.
 Elgutter, Charles S., Omaha.
 Ellick, Alfred G., Omaha.
 Everson, John, Alma.
 †Fuller, Philip H., Hastings.
 Geisthardt, Stephen L., Lincoln.
 †Gering, Matthew, Plattsmouth.
 †Goodall, Henry E., Ogallala.
 Greene, Robert J., Lincoln.
 Gurley, W. F., Omaha.
 Hainer, Eugene J., Lincoln.
 Hall, Frank M., Lincoln.
 Hall, Matthew A., Omaha.
 Hartigan, Michael A., Hastings.
 Hastings, W. G., Lincoln.
 †Keefe, Harry L., Walthill.
 Keller, Charles B., Omaha.
 Kennedy, Howard, Omaha.
 Kennedy, J. A. C., Omaha.
 Keyes, Harlow W., Indianola.
 Kinkaid, M. P., O'Neill.
 Kinsler, James C., Omaha.
 Langdon, Martin, Omaha.
 Learned, Myron L., Omaha.
 Letton, Charles B., Lincoln.
 †Loomis, George L., Fremont.
 Loomis, N. H., Omaha.
 Mahoney, Timothy J., Omaha.
 Matters, Thomas H., Omaha.
 Miles, William P., Sidney.
 Montgomery, Carroll S., Omaha.
 Moorhead, Harley G., Omaha.
 Moriman, Edgar M., Jr., Omaha.
 Munger, William H., Omaha.
 McDonald, Charles G., Omaha.
 McHugh, William D., Omaha.
 McPheely, John L., Minden.
 O'Neill, Harry E., Tuckerville.
 †Page, Ernest C., Omaha.
 Paine, Bayard H., Grand Island.
 †Perry, Ernest Bert, Cambridge.
 †Proudfit, Robert M., Friend.
 Rich, Edson, Omaha.
 Rinaker, Samuel, Beatrice.
 Rine, John A., Omaha.
 Robbins, Charles A., Lincoln.
 †Rush, Sylvester R., Omaha.
 Ryan, Charles G., Grand Island.
 Scott, Edgar H., Omaha.
 Sedgwick, Samuel H., Lincoln.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Smith, Howard B., Omaha.
 †Stewart, Willard E., Lincoln.
 Thompson, William H., Grand Island.
 Van Dusen, James H., Omaha.
 Wakeley, Eleazer, Omaha.
 †Ware, John D., Omaha.
 Webster, John L., Omaha.
 West, Joel W., Omaha.
 Wilson, Henry H., Lincoln.
 Woodrough, Joseph W., Omaha.
 Woods, Frank H., Lincoln.

NEVADA.

Brown, Hugh H., Tonopah.
 Downer, Sylvester S., Reno.
 Hawkins, Prince A., Reno.

NEW HAMPSHIRE.

Albin, John H., Concord.
 Barton, Jesse M., Newport.
 Branch, Oliver E., Manchester.
 Burleigh, Alvin, Plymouth.
 Chandler, William E., Concord.
 Chase, Ira A., Bristol.
 Colby, James F., Hanover.
 Cross, David, Manchester.
 Eastman, Samuel C., Concord.
 Hollis, Allen, Concord.
 Hurd, Henry N., Claremont.
 Jewett, Stephen S., Laconia.
 †Libby, Jesse F., Gorham.
 Madden, Joseph, Keene.
 Mitchell, John M., Concord.
 Perkins, David Walter, Manchester.
 Remick, James W., Concord.
 Rich, George F., Berlin.
 Schouler, James, Intervale.
 Snow, Lealie P., Rochester.
 Streeter, Frank S., Concord.

NEW JERSEY.

Applegate, John S., Red Bank.
 Armstrong, Edward Ambler, Camden.
 Bacot, John Vacher, Morristown.
 Bergen, James J., Somerville.
 †Benson, J. W. Rufus, Hoboken.
 †Boardman, Richard, Jersey City.
 Boardman, Samuel W., Jr., Newark.
 †Bolte, G. Arthur, Atlantic City.
 Buchanan, James, Trenton.
 Carrow, Howard, Camden.
 Chamberlin, Frederic E., Bayonne.
 Chandler, Eli H., Atlantic City.

Clevenger, William M., Atlantic City.
 Cole, Clarence L., Atlantic City.
 Colie, Edward M., Newark.
 †Coults, Joseph, Newark.
 †Daly, Peter F., New Brunswick.
 Dixon, Warren, Jersey City.
 Duffield, Edward D., Newark.
 Dumont, Wayne (New York, N. Y.),
 Paterson.

Dunn, Michael, Paterson.

Ely, John J., Freehold.

Emery, John R., Morristown.

English, Conover, Newark.

Fay, Thomas P., Long Branch.

Fort, J. Franklin, East Orange.

French, Thomas E., Camden.

†Gaskill, Robert S., Mount Holly.

†Gebhardt, Wm. C., Clinton.

Goodell, Edwin B., Montclair.

Griggs, John W. (New York, N. Y.),
 Paterson.

†Hand, Morgan, Cape May Court House.

Hardin, John R., Newark.

Hartshorne, Charles H., Jersey City.

†Hayes, James H., Jr., Atlantic City.

Hood, Louis, Newark.

Howe, William Reed, Orange.

†Humphreys, John B., Paterson.

Kallah, Samuel, Newark.

Keasbey, Edward Q., Newark.

†Keasbey, George M., Newark.

Lewis, William I., Paterson.

†Lindabury, Richard V., Newark.

Lyon, Adrian, Perth Amboy.

†Mable, Clarence, Hackensack.

†Moore, Chas. Sumner, Atlantic City.

McCarter, Robert H., Newark.

McDermott, Frank P., Jersey City.

Parker, Charles W., Jersey City.

Parker, Chauncey G., Newark.

Parker, Cortlandt, Jr., Newark.

Parker, Richard Wayne, Newark.

Pitney, John O. H., Newark.

†Rice, J. Kearny, New Brunswick.

Riker, Adrian, Newark.

Sherman, Gordon E., Morristown.

Shipman, George M., Belvidere.

†Simonson, Theodore, Newton.

Skinner, Alfred F., Newark.

Stevenson, Eugene, Paterson.

Strong, Alan H., New Brunswick.

Swayze, Francis J., Newark.

†Elected by Executive Committee between meetings, 1911-12.

†Elected by Association at annual meeting, 1912.

Terrell, William J., Burlington.
 Van Buskirk, DeWitt, Bayonne.
 Van Clee, James H., New Brunswick.
 Voorhees, Willard P., New Brunswick.
 Vroom, Garrett D. W., Trenton.
 Whiting, Borden D., Newark.
 Wilson, Edmund, Red Bank.
 Wilson, Woodrow, Trenton.

NEW MEXICO.

Catron, Thomas B., Santa Fé.
 Clancy, Frank W., Albuquerque.
 Dougherty, Harry M., Socorro.
 Field, Neill B., Albuquerque.
 †Hanna, Richard H., Santa Fé.
 Hervey, James M., Roswell.
 †Klock, Geo. Sheldon, Albuquerque.
 †Lucas, Wm. J., East Las Vegas.
 Mann, Edward A., Albuquerque.
 †Marvon, O. N., Albuquerque.
 †Mechem, Merritt C., Socorro.
 Pope, William H., Santa Fé.
 Reid, William C., Roswell.
 †Renehan, A. B., Santa Fé.
 †Staab, Julius, Albuquerque.
 Wilson, Francis C., Santa Fé.

NEW YORK.

Abbott, Everett V., New York.
 †Abbott, Henry H., New York City.
 Abbott, Lyman, New York.
 Adams, Elbridge L., New York.
 Adams, George A., Salamanca.
 Addams, Mortimer C., New York.
 Adler, Isaac, Rochester.
 Agar, John G., New York.
 Alexander, Edward A., New York.
 Allen, Frederick L., New York.
 Allen, James A., New York.
 Allen, Yorke, New York.
 Anable, Courtland V., New York.
 Andrade, Cipriano, Jr., New York.
 Andrews, Champe S., New York.
 Andrews, James D., New York.
 Aplington, Henry, New York.
 Appell, Albert J., New York.
 Arnold, Joseph A., New York.
 Arnold, Lynn J., Cooperstown.
 Arnstein, Emanuel, New York.
 Ashley, Clarence D., New York.
 Auerbach, Joseph S., New York.
 Ayres, Charles H., New York.
 Babbitt, Kurnel R., New York.

Babst, Earl D., New York.
 Bachman, George L., Geneva.
 Bacon, Selden, New York.
 Baggott, Vallandigham B., New York.
 Baldwin, Roger S., New York.
 Bamberger, Ira Leo, New York.
 Bangs, Francis S., New York.
 Banton, Joab H., New York.
 Barber, Arthur William, New York.
 †Barker, Wendell P., New York City.
 †Barnes, Henry B., New York.
 Barrett, Henry R., White Plains.
 Barry, Herbert, New York.
 Bartlett, John P., New York.
 Battle, George Gordon, New York.
 Beardsley, Samuel A., New York.
 Beck, James M., New York.
 Beckman, Charles K., New York.
 Begg, William Reynolds, New York.
 Bell, Charles, Herkimer.
 Bell, Clark, New York.
 Bell, James D., Brooklyn.
 †Bender, Melvin T., Albany.
 Benedict, Abraham, New York.
 Benedict, Edward G., New York.
 Bennet, William S., New York.
 Bennett, David C., Jr., New York.
 †Benson, Charles B., Hudson.
 Bergen, Tunis G., New York.
 †Bickford, Herbert J., New York City.
 †Blen, Franklin, New York City.
 Bijur, Nathan, New York.
 Binney, Harold, New York.
 Bischoff, Henry, Jr., New York.
 Bishop, James L., New York.
 Bissell, Frederick O., Buffalo.
 Blanchard, James A., New York.
 Blandy, Charles, New York.
 Blymyer, William H., New York.
 Bogert, Henry L., New York.
 Bond, Walter Huntingdon, New York.
 Booth, Walter C., New York.
 Boothby, John William, New York.
 Borchert, Hermann, New York.
 †Borst, Henry V., New York City.
 Boston, Charles A., New York.
 Boston, John Guyton, New York.
 Bouvier, John Vernon, Jr., New York.
 Bowen, Adna G., Medina.
 Bowman, Henry H., New York.
 Boyle, John Wellington, Utica.
 †Brackett, Edgar T., Saratoga Springs.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- Brann, Henry A., New York.
 Breed, William O., New York.
 Brennan, John F., Yonkers.
 Brewster, George R., Newburgh.
 †Brewster, Joseph, New York.
 Britt, Philip J., New York.
 Brodek, Charles A., New York.
 Brooks, James B., Syracuse.
 Brown, Carl Stedman, New York.
 Brown, Selden S., Rochester.
 Bruno, Richard M., New York.
 †Buck, Arthur A., Schenectady.
 Buck, Gordon M., New York.
 Buckbee, Monmouth S., White Plains.
 †Bull, J. Edgar, New York.
 Bullowa, Ferdinand E. M., New York.
 Bunn, Fred A., New York.
 Burd, George B., Buffalo.
 Burdick, Francis M., New York.
 Burke, John Henry, Ballston Spa.
 Burke, Thomas C., Buffalo.
 Burlingham, Charles C., New York.
 Burr, William P., New York.
 Butler, Charles Henry (Washington, D. C.), New York.
 Butler, William Allen, Jr., New York.
 Button, William H., New York.
 Byard, James J., Jr., Cooperstown.
 Byrne, James, New York.
 Cadwalader, John L., New York.
 Cady, Daniel L., New York.
 Cahn, William L., New York.
 Cahoone, Richards Mott, Brooklyn.
 Calhoun, Patrick, New York.
 Cameron, Frederick W., Albany.
 Cameron, Winfield S., Jamestown.
 Campbell, Frederick B., New York.
 Canfield, George F., New York.
 Cantwell, William W., New York.
 Cardozo, Ernest A., New York.
 Carey, Martin, New York.
 †Carlin, Walter J., New York.
 Carlisle, John N., Watertown.
 Carpenter, George H., Liberty.
 Carpenter, James Emerson, New York.
 Carter, Jarvis P., New York.
 Caruthers, Allen, New York.
 †Cary, Guy, New York.
 Chadbourne, William M., New York.
 Chandler, Walter M., New York.
 Chanler, Lewis Stuyvesant, New York.
 Chase, George, New York.
 Cheney, George Nelson, Syracuse.
 Cheney, Jerome L., Syracuse.
 Childs, Edwards H., New York.
 Chirurg, Ildore S., New York.
 Chittick, Henry R., New York.
 Choate, Joseph H., New York.
 Chrystie, T. Ludlow, New York.
 Clark, Jefferson, New York.
 Clark, Martin, Buffalo.
 Clarke, Frederick H., New York.
 Clarke, R. Floyd, New York.
 Clarke, Samuel B., New York.
 †Clay, Geo. S., New York.
 Clearwater, Alphonso T., Kingston.
 Clinch, Edward S., New York.
 Coatsworth, Edward E., Buffalo.
 Cobb, A. Ward, New York.
 Cobb, W. Bruce, New York.
 Cockran, W. Bourke, New York.
 Coffin, Herbert Lawton, New York.
 Cohen, Julius Henry, New York.
 †Cohen, Wm. R., New York.
 Colby, Bainbridge, New York.
 †Coleman, George S., New York.
 Collier, Frederick J., Hudson.
 Cooper, Drury W., New York.
 Corbin, J. Arthur, New York.
 Corwin, John B., Newburgh.
 Cossum, Charles F., Poughkeepsie.
 Coudert, Frederic R., New York.
 Courtney, Thomas E., Cortland.
 †Cox, Rosalyn M., Middletown.
 Cox, Macgrane, New York.
 Cross, Theodore L., Utica.
 Crane, Alexander B., New York.
 Crane, Frederick E., Brooklyn.
 Cravath, Paul D., New York.
 Crooley, Ferdinand S., New York.
 Crowley, Edward Chase, New York.
 Cruikshank, Alfred B., New York.
 Culver, Frederic F., New York.
 Cumming, E. D., Deposit.
 Curtis, Frank C., Troy.
 Curtis, W. J., New York.
 Curtis, William Edmond, New York.
 Cushing, Harry Alonzo, New York.
 Daly, Edward Hamilton, New York.
 Daly, Joseph F., New York.
 Danaher, Franklin M., Albany.
 †Darrow, Frederick E. W., Kingston.
 †Davies, John R., New York.
 Davies, Julien T., New York.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

- Davis, Albert G., Schenectady.
 Davis, David T., New York.
 Davis, Henry K., New York.
 Davis, Vernon M., New York.
 Davison, Charles Stewart, New York.
 Davison, Clarence S., Tarrytown.
 Daw, George W., Troy.
 Dean, George C., New York.
 Debevoise, Thomas M., New York.
 Deering, James A., New York.
 Deiches, Maurice, New York.
 DeLacy, George C., New York.
 Deming, Horace E., New York.
 Denison, Howard P., Syracuse.
 Depew, Chauncey M., New York.
 Dewey, William P., New York.
 Dexter, Stanley W., New York.
 †Dietz, Nicholas, Brooklyn.
 Dillon, John F., New York.
 Dirnberger, M. F., Jr., Buffalo.
 Dittenhofer, A. J., New York.
 Dittenhoefer, Irving M., New York.
 †Dobson, Harvey O., Brooklyn.
 †Dolan, James C., Gouverneur.
 Donnelly, Henry D., New York.
 †Dorman, William R., New York.
 Dos Passos, John R., New York.
 Dougherty, J. Hampden, New York.
 Douglas, Edward W., Troy.
 Dowd, Willis Bruce, New York.
 Doyle, Louis F., New York.
 Duell, Charles H., New York.
 †Duffy, James P. B., Rochester.
 Dugan, Patrick C., Albany.
 Dunscomb, Samuel Whitney, Jr., New York.
 Dutton, John A., New York.
 Dykman, William N., Brooklyn.
 Earle, Henry M., New York.
 †Earley, Cornelius J., New York.
 Easton, Charles Philip, New York.
 Easton, Robert T. B., New York.
 Eddy, Charles B., New York.
 Edmonds, Oscar O., New York.
 Edson, Walter H., Falconer.
 Edwards, Clarence, Elmhurst.
 Ehrhorn, Oscar W., New York.
 Einstein, B. F., New York.
 Elkus, Abram I., New York.
 Elliott, George Frederick, Brooklyn.
 Ellis, George W., New York.
 Ellis, John W., Ellicottville.
 Ellison, William Bruce, New York.
 Elsberg, Nathaniel A., New York.
 Emerson, George H., New York.
 Ennever, Thomas C., New York.
 Erwin, Frank Alexander, New York.
 Estabrook, Henry D., New York.
 Ewen, John, New York.
 Ewing, Hampton D., New York.
 Ewing, John G., New York.
 Ewing, Thomas, Jr., New York.
 Faber, Leander B., Jamaica.
 Fallows, Edward H., New York.
 Fearons, George H., New York.
 Ferris, T. Harvey, Utica.
 Fettretch, Joseph, New York.
 Field, Frank Harvey, New York.
 Fiero, J. Newton, Albany.
 Finch, Edward R., New York.
 Findley, William L., New York.
 Fish, Norman D., North Tonawanda.
 Fitch, Theodore (New York), Yonkers.
 Fixman, Ezekiel, New York.
 Flanigan, Eugene D., Albany.
 Fleischmann, Simon, Buffalo.
 Flemming, H. H., Kingston.
 Fletcher, Bertram L., New York.
 †Floan, John P., New York.
 †Foley, James A., New York.
 †Ford, Wayland F., LaForgeville.
 Fordham, Herbert L., New York.
 Forster, Henry A., New York.
 Foster, Roger, New York.
 †Fowler, Carl H., New York.
 Fowler, Everett, Kingston.
 Fox, Austen G., New York.
 Frank, Adam, New York.
 Frankfurter, Felix (Washington, D. C.), New York.
 Franklin, Benjamin, New York.
 Franklin, Ruford, New York.
 Fraser, George C., New York.
 Freedman, John J., New York.
 Frisbee, Ernest L., Buffalo.
 Fuller, Charles A., Sherburne.
 Fuller, Paul, New York.
 Fuller, Thomas Staples, New York.
 Fuller, Williamson W., New York.
 Gaillard, Wm. D., New York.
 Gale, Noel, New York.
 Gallert, David J., New York.
 Galston, Clarence G., New York.
 Gans, Howard S., New York.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Gardner, John M., New York.
 Garver, John A., New York.
 Gavin, Michael, 2d, New York.
 †Gazzam, Joseph M., New York.
 Geller, Frederick, New York.
 Gerard, James W., New York.
 Gerry, Elbridge T., New York.
 Gibbs, Clinton B., Buffalo.
 Gifford, James M., New York.
 Gifford, Livingstone, New York.
 Gillen, William W., Jamaica.
 Gilpin, C. Monteith, New York.
 †Gillroy, Thos. F., Jr., New York.
 †Gleason, A. H., New York.
 Gleason, John H., Albany.
 Glenn, Garrard, New York.
 Glynn, Martin H., Albany.
 †Goepel, C. P., New York.
 Goldman, Julius, New York.
 Goldman, Samuel P., New York.
 Goodelle, William P., Syracuse.
 Goodhue, Isaac W., New York.
 Gordon, Gordon, New York.
 †Gotthold, Arthur F., New York.
 Gram, Jesse P., New York.
 †Grantier, Jesse L., Wellsville.
 Gray, Henry G., New York.
 Greeley, William B., New York.
 †Green, Herbert, New York.
 †Greene, George E., Hoosick Falls.
 †Gregg, William W., Elmira.
 Gregory, Henry E., New York.
 Gridley, John T., Candor.
 Grimes, Robert H., New York.
 Grossman, Moses H., New York.
 Grossman, William, New York.
 Gruber, Abraham, New York.
 †Guggenheimer, Charles S., New York.
 †Gulick, Archibald, New York.
 Guthrie, William D., New York.
 Hagar, Albert Francis, New York.
 Hand, Richard L., Elizabethtown.
 Hanford, Solomon, New York.
 Hansmann, Carl A., New York.
 Hardy, Charles J., New York.
 Hare, Montgomery, New York.
 Harris, Albert H., New York.
 Harrison, Robert L., New York.
 Haskell, Reuben L., Brooklyn.
 Haskin, Lincoln B., Hempstead.
 Hatch, Edward W., New York.
 Hatt, Samuel S., Albany.

†Haughwort, James Ard, New York.
 Haviland, O. Augustus, Brooklyn.
 Hawes, Gilbert Ray, New York.
 †Hawkins, Eugene D., New York.
 Hay, Eugene G. (Minneapolis, Minn.),
 New York.
 Hayes, Alfred, Jr., Ithaca.
 Hayward, Harry Woodford, New York.
 Hazelton, Dallas M., Gouverneur.
 Hedges, Job E., New York.
 Hemmens, Henry J., New York.
 Hensberg, Albert, Albany.
 Hill, Henry W., Buffalo.
 Hines, Walker D., New York.
 Hirschberg, Henry, Newburgh.
 †Hiscock, Frank H., Syracuse.
 Hitchings, Hector M., New York.
 Hobbs, Elon S., New York.
 Hodge, J. Aspinwall, New York.
 Hodges, Frank B., Syracuse.
 †Hogue, Arthur S., Plattsburgh.
 Holcomb, Alfred E., New York.
 Holmes, Delevan A., New York.
 Holmes, George, New York.
 Homes, Henry F., New York.
 †Horan, Michael J., New York.
 Hornblower, William B., New York.
 Hotchkiss, William Horace, New York.
 Hough, Charles M., New York.
 Howard, Archibald, Binghamton.
 †Howland, Clarence, Catskill.
 Hubbard, Thomas H., New York.
 Hudson, James A., New York.
 Hughes, Charles E. (Washington,
 D. C.), New York.
 Humes, Augustine L., New York.
 Humphrey, Burt Jay, Jamaica.
 Hurd, George F., New York.
 Ingalsbe, Grenville M., Hudson Falls.
 Irvine, Frank, Ithaca.
 Isaacs, Lewis M., New York.
 †Jackson, Edgar, Freeport.
 Jacobson, Isaac W., New York.
 Jellinek, Edward L., Buffalo.
 Jessup, Henry Wynans, New York.
 †Johnson, Albin Nicholas, Freeport.
 †Johnson, Arthur T., Gouverneur.
 Johnson, Edwin J., New York.
 Joline, Adrian H., New York.
 Judge, John E., Plattsburgh.
 Kahn, Louis L., New York.
 Kalish, Edwin L., New York.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Kane, Arthur M. A., Mamaroneck.
 Kane, Michael N., Warwick.
 Keenan, Thomas J., Binghamton.
 Keener, Wm. A., New York.
 Kellogg, Joseph A., Glens Falls.
 Kellogg, L. Laffin, New York.
 †Kellogg, Virgil K., Watertown.
 Kelly, James A., New York.
 Kempner, Otto, Brooklyn.
 Kendall, Messmore, New York.
 Kenna, Edward D. (Chicago, Ill.), New York.
 Kenneson, Thaddeus Davis, New York.
 Kenney, Martin G., New York.
 Kent, Ralph S., Buffalo.
 Kenyon, Alan D., New York.
 Kenyon, Robert Nelson, New York.
 Kenyon, William H., New York.
 Kerr, Thomas B., New York.
 Kidder, Camillus G., New York.
 Kiddle, Alfred W., New York.
 Kiendl, Theodore, Brooklyn.
 Kilsheimer, James B., New York.
 †Kilsheimer, James B., Jr., New York.
 King, David Bennett, New York.
 †King, Frederick P., New York.
 King, Louis M., Schenectady.
 Kirchwey, George W., New York.
 Kirlin, J. Parker, New York.
 Kirtland, Michel, New York.
 Klein, Henry, Kingston.
 Kling, Joseph, New York.
 Knauth, Antonio, New York.
 Kneeland, Andrew Delos, New York.
 Knox, John Mason, New York.
 †Kohler, Edgar J., New York.
 †Kopelman, Barnett E., New York.
 Krauthoff, Lewis C., New York.
 Kremer, Eugene G., New York.
 Kuhn, John J., Brooklyn.
 Kuraheedt, Manuel A., New York.
 †Lancaster, William W., New York.
 Landale, Russell H., New York.
 Lande, Louis, New York.
 †Lane, Wolcott, G., New York.
 Lauterbach, Edward, New York.
 †Lawrence, Frank L., New York.
 Lawson, Joseph A., Albany.
 Leavitt, John Brooks, New York.
 Lee, David F., Norwich.
 Leffingwell, Russell C., New York.
 Lehmaier, James S., New York.

Leo, Leopold, New York.
 Levi, Joseph C., New York.
 Levis, Howard C. (London, England), Schenectady.
 Levy, Joseph L., New York.
 Liebmann, Walter H., New York.
 Lindsay, John D., New York.
 †Linson, John J., Kingston.
 Littlefield, Charles E., New York.
 Lockwood, Benoni, New York.
 †Lockwood, Charles C., New York.
 Loewy, Benno, New York.
 Lovell, Herbert M., Elmira.
 Lovett, Robert S., New York.
 Lustgarten, William, New York.
 Lynn, John D., Rochester.
 Lynn, Wauhope, New York.
 Maass, Herbert H., New York.
 Macdonald, Eugene Spencer, New York.
 Mack, William, New York.
 Mackenzie, Kenneth K., New York.
 †MacVeagh, Charles, New York.
 Magavern, William J., Buffalo.
 †Maloney, Wm. P., New York.
 Mandeville, H. C., Elmira.
 Marshall, James Markham, New York.
 Marshall, Louis, New York.
 Martin, William J., New York.
 Martin, William Parmenter, New York.
 Mastick, Seabury C., New York.
 Mathewson, Charles F., New York.
 †Matson, Willis A., Rochester.
 Meeker, Rollin W., Binghamton.
 Mehan, William A., Ballston Spa.
 Mellen, Chase, New York.
 Merchant, Henry D., New York.
 Meyer, Walter E., New York.
 Meyers, Sidney S., New York.
 Milburn, John G., New York.
 Miller, William W., New York.
 Milnor, M., Cleland, New York.
 Minton, Francis L., New York.
 Mitchell, Joseph V., New York.
 Mitchell, Robert Chamberlain, New York.
 Moffat, R. Burnham, New York.
 Montelth, George E., Binghamton.
 Mooney, Edmund L., New York.
 Moore, John Bassett, New York.
 Moot, Adelbert, Buffalo.
 Morgan, George Wilson, New York.
 Morris, Heman W., Rochester.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Morris, Robert C., New York.
 Morrow, Dwight W., New York.
 Morschauer, Joseph, Poughkeepsie.
 Morse, Waldo G., New York.
 Mosher, Lewis E., Elmira.
 Moss, Frank, New York.
 Muhlfelder, David, Albany.
 Mullin, Francis B., Brooklyn.
 Murray, A. Gordon, New York.
 Murtha, Thomas F., New York.
 Myers, Nathaniel, New York.
 McCarthy, Charles T., Glen Cove.
 McCombs, William F., New York.
 McCook, Philip James, New York.
 McCrary, A. J., Binghamton.
 McCulloh, Allan, New York.
 McKibben, Victor K., Jr., New York.
 McGuire, Horace, Rochester.
 McIlvaine, Tompkins, New York.
 McIntosh, James H., New York.
 McIntyre, John F., New York.
 McKelvey, Charles W., New York.
 †McKelvey, Lawrence B., Saratoga Springs.
 McKenna, Thomas P., New York.
 McKinney, William M., Northport.
 McLean, Donald, New York.
 McMahon, Fulton, New York.
 McMahon, John D., Rome.
 McManus, Terence J., New York.
 McNulty, William D., New York.
 McReynolds, James O., New York.
 McWilliams, Howard, New York.
 Nathan, Edgar J., New York.
 Nathan, Harold, New York.
 Naumburg, Bernard, New York.
 Nellis, Andrew J., Albany.
 Nichols, George L., New York.
 Nicholson, John, New York.
 Nicoll, DeLancey, New York.
 Noble, Daniel, Jamaica.
 Noble, Herbert, New York.
 †Norton, Algernon S., New York.
 Norton, Porter, Buffalo.
 Norwood, Carlisle, New York.
 Nottingham, Edwin, Syracuse.
 Nottingham, Wm., Syracuse.
 Oakes, Charles, New York.
 O'Brien, Edward D., New York.
 O'Brien, Morgan J., New York.
 †O'Connor, Charles Leo, Buffalo.
 O'Connor, Keyran J., New York.
 Oeland, Isaac R., Brooklyn.
 O'Gorman, James A., New York.

Olcott, J. Van Vechten, New York.
 Opdyke, Alfred, New York.
 Opdyke, William S., New York.
 O'Sullivan, Wm. J., New York.
 Page, William H., New York.
 Parish, Edward C., New York.
 Parker, Alton B., New York.
 Parker, Junius, New York.
 Parker, Winthrop, New York.
 Parkinson, Thomas I. (Philadelphia, Pa.), New York.
 Parmly, Randolph, New York.
 Parsons, John E., New York.
 †Paakus, Benjamin G., New York.
 Patterson, Daniel W., New York.
 Paulding, Charles C., New York.
 Pegram, Henry, New York.
 Pendleton, Francis Key, New York.
 †Pette, Alfred C., New York.
 Petty, Robert D., New York.
 Philipp, Moritz Bernard, New York.
 Phillips, Lewis S., New York.
 Pierce, Charles L., Rochester.
 Pierce, Winslow S., New York.
 Place, Ira A., New York.
 Platt, Frank H., New York.
 Pollak, Francis D., New York.
 Porter, Louis H., New York.
 †Posner, Louis S., New York.
 Potter, Frederick, New York.
 Potts, Joseph, New York.
 Pound, Cuthbert W., Lockport.
 Powell, Omar, New York.
 Pratt, Charles A. B., New York.
 Prentice, E. Parmelee, New York.
 Prentice, William P., New York.
 Prime, Ralph E., Yonkers.
 Prindle, Edwin J., New York.
 †Pringle, Edward G., New York.
 Proskauer, Joseph M., New York.
 Purdy, Lawson, New York.
 Purrington, William Archer, New York.
 Putnam, Harrington, Brooklyn.
 Quackenbush, James L., New York.
 Quinn, John, New York.
 Rafferty, William F., Syracuse.
 Rand, William, Jr., New York.
 Randolph, Stuart F., New York.
 Read, William T., New York.
 Redding, Joseph D., New York.
 Redding, William A., New York.
 Redfield, Henry S., New York.
 Reeves, Alfred G., New York.

† Elected by Executive Committee between meetings, 1911-12.

†Beeves, Herbert, New York.
 Rich, Burdett A., Rochester.
 Riker, Samuel, Jr., New York.
 Roberts, Jos. Banks, New York.
 Rockwood, Nash, Saratoga Springs.
 Rodenbeck, Adolph J., Rochester.
 Roe, Gilbert E., New York.
 Roe, William, Wolcott.
 Rogers, Hubert E., New York.
 Rogers, L. Harding, Jr., New York.
 Rogers, Noah Cornwall, New York.
 Ronan, Edward D., Albany.
 Rooney, John Jerome, New York.
 Root, Elihu (Washington, D. C.),
 New York.
 Rosenberg, James N., New York.
 Rosendale, Simon W., Albany.
 Rounds, Arthur C., New York.
 †Rounds, Ralph S., New York.
 Rowe, William V., Brooklyn.
 Rowland, Arthur, Yonkers.
 Rowlette, Thomas M., New York.
 Rubino, Henry A., New York.
 Rudd, William Platt, Albany.
 Rush, Thomas E., New York.
 †Russell, Charles Howland, New York.
 Russell, Isaac F., New York.
 Sackett, Henry W., New York.
 Sage, Dean, New York.
 Sanborn, Frederick H., New York.
 Sanford, Charles M., Smithtown Branch.
 Sanford, Ferdinand V., Warwick.
 †Sawyer, Cleon J., New York.
 Scallon, William, New York.
 †Schaap, Michael, New York.
 Scharps, Albert T., New York.
 Schurnnan, Geo. W., New York.
 Schurr, Carl L., New York.
 Scott, Henry W., New York.
 Scovell, J. Boardman, Niagara Falls.
 Seabury, William M., New York.
 †Sears, Charles B., Buffalo.
 Sears, Hector, Gardiner.
 Semple, Oliver C., New York.
 Sexton, Lawrence E., New York.
 Sexton, Pliny T., Palmyra.
 Seymour, Henry H., Buffalo.
 Seymour, Origen Storrs, New York.
 Shearn, Clarence J., New York.
 Sheehan, William F., New York.
 Sheldon, Edward W., New York.
 Shenstone, Archibald C., New York.
 Sherman, P. Tecumseh, New York.

Sherrill, Charles Hitchcock, New York.
 Shipman, Andrew J., New York.
 Shire, Moses, Buffalo.
 Shoemaker, Herbert Brodiah, New York.
 Sitterly, Jere S., Fonda.
 Slade, John A., Saratoga Springs.
 Smith, A. Page, Albany.
 Smith, Frank Sullivan, New York.
 Smith, Nelson, New York.
 Sonnenberg, Louis M., New York.
 Spellissy, Denis S., New York.
 Spellman, Benjamin F., New York.
 Spencer, Frederick G., Fulton.
 Spencer, Nelson E., Rochester.
 Spiegelberg, Eugene E., New York.
 Spooner, John C., New York.
 Sprague, Rufus W., Jr., New York.
 †Spratt, Thomas, Ogdensburg.
 Stagg, Charles Tracey, Ithaca.
 †Steele, Sanford H., New York.
 Stetson, Francis Lynde, New York.
 Steuart, James L., New York.
 Stevens, Frederick W., New York.
 Stier, Joseph F., New York.
 Stoddard, John M., New York.
 Stols, Benjamin, Syracuse.
 Stone, Harlan F., New York.
 †Stover, Martin L., New York.
 Straus, Charles, New York.
 Sturges, Ralph A., New York.
 †Suffren, Charles C., Brooklyn.
 Suggett, John W., Cortland.
 Sullivan, William H., Rochester.
 Sumerwell, E. K., New York.
 Sumner, Edward A., New York.
 Sutro, Theodore, New York.
 Symmers, James Keith, New York.
 Taft, Henry W., New York.
 Taggart, W. Rush, New York.
 Talcott, Charles A., Utica.
 Tanzer, Lawrence Arnold, New York.
 Tappan, J. B. Coles, New York.
 Taylor, Benjamin, Port Chester.
 Taylor, Francis B., Hempstead.
 Taylor, Howard, New York.
 Taylor, John Robert, New York.
 Taylor, Walter F., New York.
 Teller, John D., Auburn.
 Templeton, Richard H., Buffalo.
 Terry, Charles Thaddeus, New York.
 Thacher, Archibald G., New York.
 Thacher, Thomas, New York.
 Thompson, A. C. N., Middletown.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Thompson, David A., Albany.
 Thorne, Samuel, Jr., New York.
 Tice, David, Lockport.
 †Tift, Irving H., New York.
 Tinklepaugh, George S., Palmyra.
 Tompkins, Hamilton B., New York.
 Towne, Charles A., New York.
 Towns, Mirabeau L., New York.
 Tracey, James F., Albany.
 Tracy, Benjamin F., New York.
 Treadwell, Leman B., New York.
 Trenholm, Frank, New York.
 Turrell, Edgar A., New York.
 Untermeyer, Samuel, New York.
 Van Allen, John W., Buffalo.
 Vanamee, William, Newburgh.
 †VanCleaf, Mynderse, Ithaca.
 Van Etten, John G., Kingston.
 Van Iderstine, Robert, New York.
 Van Sinderen, Howard, New York.
 Van Slyck, George W., New York.
 †Vann, Irving Dillaye, Syracuse.
 Varian, Alfred Wright, New York.
 Vien, Henry A., New York.
 Villard, Harold G., New York.
 Vorhaus, Louis J., New York.
 Wadhams, Frederick E., Albany.
 Wagner, Franklin Allan, New York.
 Waldo, George E., New York.
 Walker, Albert H., New York.
 Walsh, Arthur R., Albany.
 Walton, Charles W., Kingston.
 Walton, Robert Kelsey, New York.
 Ward, H. Judd, Troy.
 Ward, Hamilton, Buffalo.
 Ward, Henry Galbraith, New York.
 Ward, Henry M., New York.
 Warfield, F. P., New York.
 Warner, John DeWitt, New York.
 Waters, Louis L., Syracuse.
 Watson, Archibald Robinson, New York.
 Webb, Willoughby Lane, New York.
 Well, Arnold Charles, New York.
 Wells, T. Tileston, New York.
 Wemple, William L., New York.
 Wensley, Robert L., New York.
 Werner, Charles H., New York.
 Weselman, Henry B., New York.
 Westwood, Herman J., Fredonia.
 Wetmore, Edmund, New York.
 Whalen, John, New York.

†Wheeler, Charles B., Buffalo.
 Wheeler, Everett P., New York.
 Whitehouse, Samuel S., New York.
 Whitford, Daniel, New York.
 Whitlock, Victor E., New York.
 Whitman, Malcolm D. (Boston, Mass.), New York.
 Whittlesey, Granville, New York.
 Wickersham, George W. (Washington, D. C.), New York.
 †Wickware, Arthur M., New York.
 Wierum, Otto C., Jr., New York.
 Wilcox, Anseley, Buffalo.
 Wilder, William Royal, New York.
 Willcox, Orlando B., New York.
 Williams, Frank B., New York.
 Williams, Henry Davison, New York.
 Wing, Arthur K., New York.
 Wing, Henry T., New York.
 Winalow, William Beverly, New York.
 Wise, Henry A., New York.
 Wise, Henry M., New York.
 Wise, Edmond E., New York.
 Wollman, Henry, New York.
 Woodford, Stewart L., New York.
 Worcester, Edwin D., New York.
 Work, James Henry, New York.
 Wright, Arthur, New York.
 Wright, Boardman, New York.
 Wyckoff, J. Edwards, New York.
 Young, Charles H., New York.
 Young, Eugene N. L., Long Island City.
 Young, Thomas, Huntington.
 Zabriskie, George, New York.

NORTH CAROLINA.

Adams, Junius G., Asheville.
 †Adams, Thaddeus A., Charlotte.
 Alexander, Joseph E., Winston-Salem.
 Allen, Murray, Raleigh.
 Andrews, Alexander Boyd, Jr., Raleigh.
 †Bassett, Lucius V., Rocky Mount.
 Beall, Thomas Settle, Greensboro.
 Bernard, Silas G., Asheville.
 Biggs, J. Crawford, Durham.
 Bourne, Louis M., Asheville.
 Bradshaw, George Sam., Greensboro.
 †Bramham, Wm. Gibbons, Durham.
 Bridgers, John L., Tarboro.
 Brooks, Aubrey L., Greensboro.
 †Burns, R. L., Carthage.
 Buxton, John Cameron, Winston-Salem.

† Elected by Executive Committee between meetings, 1911-12.

† Elected by Association at annual meeting, 1912.

Bynum, William P., Greensboro.
 Clement, L. H., Salisbury.
 Connor, Henry G., Wilson.
 †Cowan, Coleman C., Webster.
 Davidson, Theodore F., Asheville.
 †Davis, A. C., Goldsboro.
 Davis, Junius, Wilmington.
 Davis, Thomas W., Wilmington.
 †Dillard, John H., Murphy.
 Douglas, Robert M., Greensboro.
 Ferguson, Garland S., Greensboro.
 Guion, Owen H., New Bern.
 †Guthrie, Thomas C., Charlotte.
 Guthrie, William A., Durham.
 Hendren, W. M., Winston-Salem.
 Hicks, Thurston T., Henderson.
 Johnston, Fred S., Franklin.
 †Little, James C., Raleigh.
 Manly, Clement, Winston-Salem.
 Manning, James S., Durham.
 Martin, Julius C., Asheville.
 Meares, Iredelle, Wilmington.
 Merrick, Duff, Asheville.
 †Merrimon, James G., Asheville.
 Moore, Charles A., Asheville.
 Murphy, James Dixon, Asheville.
 Pace, William Heck, Raleigh.
 Parker, Haywood, Asheville.
 Patterson, Lindsay, Winston-Salem.
 †Pou, James H., Raleigh.
 Preston, Edmund R., Charlotte.
 Pruden, William D., Edenton.
 Raper, Emery E., Lexington.
 Rollins, Thomas Scott, Asheville.
 Rountree, George, Wilmington.
 †Seawell, Herbert F., Carthage.
 Skinner, Harry, Greenville.
 Spence, Union L., Carthage.
 Stern, David P., Greensboro.
 Stevens, Henry L., Warsaw.
 Tillett, Charles W., Charlotte.
 Townes, William A., Wilmington.
 †Van Winkle, Kingsland, Asheville.
 Walker, Platt D., Raleigh.
 Wildes, Charles D., Raleigh.
 Wilson, John N., Greensboro.
 Winston, R. W., Raleigh.
 Woodard, Fred A., Wilson.
 Zollicoffer, A. C., Henderson.

NORTH DAKOTA.

Ames, F. W., Mayville.
 Amidon, Charles F., Fargo.
 Austin, James M., Ellendale.
 Bangs, George A., Grand Forks.
 Bangs, Tracy R., Grand Forks.
 Birdsell, Luther E., Grand Forks.
 Bosard, Robert H., Minot.
 Bronson, Harrison A., Grand Forks.
 Bruce, Andrew A., Bismarck.
 Chatfield, Mark M., Minot.
 Conklin, Marion, Jamestown.
 †Cooley, Charles M., Grand Forks.
 Divet, A. G., Wahpeton.
 Ellsworth, S. E., Jamestown.
 †Greene, John E., Minot.
 Hildreth, Melvin A., Fargo.
 Knauf, John, Jamestown.
 †Leverson, Oliver, New Salem.
 Martineau, Laury L., St. John.
 Montgomery, J. A., Fargo.
 Murphy, Charles J., Grand Forks.
 McGee, George A., Minot.
 †Nash, Dudley, L., Minot.
 Palda, L. J., Jr., Minot.
 Pollock, Robert M., Fargo.
 Purcell, Wm. E., Wahpeton.
 Radcliffe, Samuel Larimore.
 Skulason, B. G., Grand Forks.
 Spalding, Burleigh Folsom, Fargo.
 Turner, Harry R., Fargo.
 †Webb, George T., Merricourt.
 Wineman, Jacob B., Grand Forks.
 Winterer, Herman, Valley City.
 Young, Newton C., Fargo.

OHIO.

†Alcorn, Albert D., Cincinnati.
 †Allen, Alfred M., Cincinnati.
 †Andrews, Allen, Hamilton.
 Arnold, Harry B., Columbus.
 †Baer, Henry, Cincinnati.
 †Bennett, Smith W., Columbus.
 †Bentley, Charles S., Cleveland.
 Bettman, Alfred, Cincinnati.
 †Bettman, Gilbert, Cincinnati.
 Billingley, N. B., Lisbon.
 Boyd, James Harrington, Toledo.
 Brady, P. J., Cleveland.
 †Brodrick, John M., Marysville.
 †Brophy, Stephen, Toledo.
 Burket, Harlan F., Findlay.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Bushnell, T. H., Cleveland.
 †Boss, Charles M., Cleveland.
 †Butler, James M., Columbus.
 Cable, D. J., Lima.
 †Calfee, Robert M., Cleveland.
 Cannon, Austin V., Cleveland.
 †Cist, Charles M., Cincinnati.
 Clarke, John H., Cleveland.
 Colston, Edward, Cincinnati.
 Cook, E. S., Cleveland.
 Couse, Howard A., Cleveland.
 †Cox, Allen M., Conneaut.
 Cushing, William E., Cleveland.
 Day, William R. (Washington, D. C.), Canton.
 Dempsey, James H., Cleveland.
 Demman, U. G., Toledo.
 †Dennis, Jerry, Columbus.
 †Doyle, Dayton A., Akron.
 Doyle, John H., Toledo.
 Durban, Frank A., Zanesville.
 Dickson, William L., Cincinnati.
 †Ellis, Wade H., Cincinnati.
 Fenning, Karl, Cleveland.
 Ferris, Aaron A., Cincinnati.
 Flory, Walter L., Cleveland.
 Pollett, Alfred Dewey, Marietta.
 †Foster, Israel Moore, Cincinnati.
 †Frasure, Nelson W., Lancaster.
 Freiberg, A. Julius, Cincinnati.
 Fuller, Clifford W., Cleveland.
 †Gallagher, John A., Marietta.
 Garfield, James R., Cleveland.
 Geddes, Frederick L., Toledo.
 †Goldsmith, Geoffrey, Cincinnati.
 Goulder, Harvey D., Cleveland.
 Granger, Moses M., Zanesville.
 Grant, Richard F., Cleveland.
 †Graydon, Joseph S., Cincinnati.
 Greve, Charles Theodore, Cincinnati.
 Hadden, Alexander, Cleveland.
 Hall, Almon, Toledo.
 Harmon, Judson, Cincinnati.
 Harper, Jacob Chandler, Cincinnati.
 †Harrington, N. R., Bowling Green.
 †Harris, George, B., Cleveland.
 †Henderson, D. C., Lima.
 Henderson, John M., Cleveland.
 Hines, Clark B., Bellville.
 Hoadly, George, Cincinnati.
 Hoffheimer, Harry M., Cincinnati.
 Hoggatt, Thomas H., Cleveland.

†Holbrook, Ralph S., Toledo.
 Hollister, Thomas, Cincinnati.
 †Hoses, Lewis M., Cincinnati.
 Howland, Paul, Cleveland.
 Hoyt, James H., Cleveland.
 †Hunt, Charles B., Coshocton.
 Hunt, Charles J., Cincinnati.
 †Ingervoll, Alvan F., Cleveland.
 James, Benjamin F., Bowling Green.
 James, Eldon R., Cincinnati.
 James, Francis B., Cincinnati (Washington, D. C.).
 Jelke, Ferdinand, Jr., Cincinnati.
 †Jerome, F. J., Cleveland.
 †Johnson, Clyde Parker, Cincinnati.
 Johnson, Homer H., Cleveland.
 †Johnson, J. William, Cincinnati.
 Johnson, Simeon M., Cincinnati.
 Johnson, Thomas Lynn, Cleveland.
 Jones, Asahel W., Burg Hill.
 †Kelley, Thomas H., Cincinnati.
 Kennon, Newell K., St. Clairsville.
 Kibler, Edward, Newark.
 King, Edmund B., Sandusky.
 †King, Harry E., Toledo.
 King, Robert J., Zanesville.
 Kinney, Guy W., Toledo.
 Kline, Virgil P., Cleveland.
 Knight, Walter A., Cincinnati.
 †Lackner, Joseph L., Cincinnati.
 †Lowry, L. Ho E., Youngstown.
 Mackoy, Harry Brent, Cincinnati.
 Mackoy, Wm. H., Cincinnati.
 Marshall, Edwin J., Toledo.
 †Mathers, H. T., Sidney.
 Matthews, O. Bentley, Cincinnati.
 Matthews, Mortimer, Cincinnati.
 Maxwell, Lawrence, Cincinnati.
 †Merrell, Wm. S., Coshocton.
 †Morse, Frank R., Cincinnati.
 Morton, Elbert O., Columbus.
 †Meyer, Edward R., Zanesville.
 McCarthy, M. B., Toledo.
 †McKimson, Robert Erastus, Cleveland.
 McMahon, J. Sprigg, Dayton.
 Newbegin, Henry, Defiance.
 Norris, Myron A., Youngstown.
 Outcalt, Dudley C., Cincinnati.
 Peck, Hiram D., Cincinnati.
 Pomerene, Atlee, Canton.
 Potter, Emery D., Toledo.
 †Powell, L. K., Mt. Gilead.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Pugh, Robert C., Cincinnati.
 †Pyle, Emery Clinton, Cincinnati.
 Quail, Frank A., Cleveland.
 Ranney, Henry C., Cleveland.
 Rightmire, George W., Columbus.
 Robertson, C. D., Cincinnati.
 Robeson, Andrew C., Greenville.
 Rogers, William F., Cincinnati.
 †Rouse, John T., Cincinnati.
 Saltzgeber, Gaylord M., Van Wert.
 †Sampliner, Joseph H., Cleveland.
 Sanders, W. B., Cleveland.
 Sayler, John Riner, Cincinnati.
 †Schindel, John Randolph, Cincinnati.
 Scott, Samuel Parsons, Hillsboro.
 †Seager, Frank E., Fremont.
 †Shattuck, A. C., Cincinnati.
 †Simmons, George D., Hicksville.
 †Smart, John Harrow, Cleveland.
 Smedes, John Marshall, Cincinnati.
 †Smiley, James J., Cincinnati.
 †Smith, Charles B., Cincinnati.
 Smith, Rufus B., Cincinnati.
 †Smith, Samuel W., Jr., Cincinnati.
 Southworth, Constant, Cincinnati.
 Squire, Andrew, Cleveland.
 †Stasel, Albert A., Newark.
 Stewart, Gilbert H., Columbus.
 Stoehr, Oscar, Cincinnati.
 Stricker, Sidney G., Cincinnati.
 Strong, Edward W., Cincinnati.
 †Stueve, C. A., Wapakoneta.
 Taft, Frederick L., Cleveland.
 Taft, William H. (Washington, D. C.),
 Cincinnati.
 Taylor, Jonathan, Akron.
 Thraves, Meade G., Fremont.
 Tolles, Sheldon H., Cleveland.
 Vandeman, John N., Dayton.
 Vorys, Arthur L., Columbus.
 †Walker, Charles A. J., Cincinnati.
 Warrington, John W., Cincinnati.
 Wheeler, Seth S., Lima.
 †White, John G., Cleveland.
 Worthington, William, Cincinnati.
 Young, George R., Dayton.

OKLAHOMA.

Ames, Charles B., Oklahoma City.
 Bierer, A. G. Curtin, Guthrie.
 †Blair, Robert F., Wagoner.
 Bledsoe, S. T., Oklahoma City.

Bunn, Clinton O., Oklahoma City.
 Burwell, Benjamin F., Oklahoma City.
 Carmichael, J. D., Chickasha.
 Cottingham, J. R., Oklahoma City.
 Davenport, James S., Vinita.
 Du Mars, John E., Oklahoma City.
 Fechheimer, Charles M., Chickasha.
 †Fuller, William Hayes, McAlester.
 Furry, J. B., Muskogee.
 Galbraith, Clinton A., Ada.
 Harris, S. H., Oklahoma City.
 Jackson, Clifford L., Muskogee.
 Jackson, R. E., Salisaw.
 Kane, Matthew J., Guthrie.
 Keaton, J. R., Oklahoma City.
 †Kleinschmidt, R. A., Oklahoma City.
 Kornegay, W. H., Vinita.
 Ledbetter, Walter A., Oklahoma City.
 Mason, Herbert D., Tulsa.
 Matthews, William M., Okmulgee.
 †Miller, Charles W., Muskogee.
 Mosier, John H., Muskogee.
 Murphy, George A., Muskogee.
 McDougal, D. A., Sapulpa.
 Ralls, Joseph G., Atoka.
 Ramsey, George S., Muskogee.
 Rittenhouse, George B., Chandler.
 †Ready, James H., Oklahoma City.
 Rowland, Lloyd A., Bartlesville.
 †Russell, S. H., Ardmore.
 †Senior, John L., Tulsa.
 Shear, B. D., Oklahoma City.
 †Stuart, Charles B., Oklahoma City.
 Tolbert, James R., Hobart.
 Veasey, James A., Bartlesville.
 Wells, Frank, Oklahoma City.
 West, Preston C., Muskogee.
 Wilson, W. F., Oklahoma City.
 Womack, T. J., Alva.
 Wrightsman, Charles J., Tulsa.

OREGON.

Bernstein, Alexander, Portland.
 Bristol, William C., Portland.
 Carey, Charles H., Portland.
 Chamberlain, George E., Portland.
 Clark, Alfred E., Portland.
 Cohen, D. Solis, Portland.
 Cohen, Max G., Portland.
 Cotton, William W., Portland.
 Dillard, Wm. B., St. Helens.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Duniway, Ralph R., Portland.
 Eakin, Robert, Salem.
 Gantenbein, Calvin U., Portland.
 Gearin, John M., Portland.
 Geisler, T. J., Portland.
 Greene, Thomas G., Portland.
 Hayter, Oscar, Dallas.
 Henderson, John Leland, Hood River.
 Herz, Phillip, Portland.
 Hill, Samuel, Portland.
 Holman, Frederick V., Portland.
 Kerr, James B., Portland.
 King, Will R., Salem.
 La Roche, Walter P., Portland.
 Minor, Wirt, Portland.
 Montague, Richard W., Portland.
 Moore, F. A., Salem.
 Morrow, Robert G., Portland.
 †Moessohn, David N., Portland.
 Mulkey, Frederick W., Portland.
 †McCamant, Wallace, Portland.
 McNary, John H., Salem.
 †Nelson, Roscoe C., Portland.
 †Platt, Robert Treat, Portland.
 Schnabel, Charles J., Portland.
 Smith, Itham, N., Portland.
 Smith, Milton W., Portland.
 †Stearns, J. O., Portland.
 Teal, Joseph N., Portland.
 Tift, Arthur P., Portland.
 Van Zante, John, Portland.
 Webster, Lionel R., Portland.
 Wolverton, Charles E., Portland.

PENNSYLVANIA.

Abbott, Edwin M., Philadelphia.
 Alexander, Benjamin, Philadelphia.
 Alexander, Lucien H., Philadelphia.
 Allen, William Harrison, Warren.
 Amram, David Werner, Philadelphia.
 Anderson, William Y. C., Philadelphia.
 Baer, George F., Reading.
 Bailey, Charles L., Jr., Harrisburg.
 Barnes, John Hampton, Philadelphia.
 Bayard, James Wilson, Philadelphia.
 Beal, James H., Pittsburgh.
 †Beaver, James A., Bellefonte.
 Bedford, George R., Wilkes Barre.
 Bedford, J. Claude, Philadelphia.
 Beeber, Dimmer, Philadelphia.
 †Beitler, Harold B., Philadelphia.
 Bell, John C., Philadelphia.

Bertolette, Frederick, Manch Chunk.
 Biddle, Charles, Philadelphia.
 Binney, Charles Chauncey, Philadelphia.
 Blakeley, William A., Pittsburgh.
 Blanchard, John, Bellefonte.
 Bland, Henry Willis, Reading.
 Bohlen, Francis H., Philadelphia.
 Bracken, Francis B., Philadelphia.
 †Brice, Philip H., Philadelphia.
 †Bright, Robert S., Philadelphia.
 Brown, Francis Shunk, Philadelphia.
 Brown, J. Hay, Lancaster.
 Brown, John A., Philadelphia.
 Brown, John Douglass, Philadelphia.
 Budd, Henry, Philadelphia.
 Burnett, William H., Philadelphia.
 †Burr, James E., Scranton.
 Cadwalader, John, Philadelphia.
 †Cadwalader, John, Jr., Philadelphia.
 †Carr, Geo. Wentworth, Philadelphia.
 Carson, Hampton L., Philadelphia.
 Chambers, Francis T., Philadelphia.
 Chapman, S. Spencer, Philadelphia.
 †Chew, Samuel, Philadelphia.
 Clement, Charles M., Sumbury.
 Colahan, John Barry, Jr., Philadelphia.
 Cooper, Samuel W., Philadelphia.
 Cooper, William Thomas, Philadelphia.
 †Cottom, Harry A., Brownsville.
 Crocker, William D., Williamsport.
 Cuyler, Thomas DeWitt, Philadelphia.
 Dana, Samuel W., New Castle.
 †Deckert, Henry T., Philadelphia.
 Dickson, Samuel, Philadelphia.
 Duane, Russell, Philadelphia.
 Edmonds, Franklin S., Philadelphia.
 Endlich, Gustav A., Reading.
 Ealing, Henry C., Philadelphia.
 Ewing, Nathaniel, Uniontown.
 Farquhar, Guy E., Pottsville.
 Fenton, Hector T., Philadelphia.
 Flaisher, William Righter, Philadelphia.
 †Fitzgerald, Wm. J., Scranton.
 Flaherty, James A., Philadelphia.
 Flowers, George W., Pittsburgh.
 Fox, Edward J., Easton.
 Fraley, Joseph C., Philadelphia.
 Fredericks, John T., Williamsport.
 Gates, Thomas S., Philadelphia.
 Gest, John Marshall, Philadelphia.
 Gilbert, Lyman D., Harrisburg.
 Gill, Henry Sterling, Greensburg.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Glasgow, William A., Jr., Philadelphia.
 Graham, George S., Philadelphia.
 Gray, James C., Pittsburgh.
 Griffith, Warren C., Philadelphia.
 Guthrie, George W., Pittsburgh.
 Hagan, Alonzo C., Uniontown.
 Hall, William M., Pittsburgh.
 Hamblen, Lynne Ayers, Ridgway.
 Hanna, Meredith, Philadelphia.
 Hargest, William M., Harrisburg.
 Hayes, William M., West Chester.
 Hazzard, Vernon, Monongahela.
 Hemphill, Joseph, West Chester.
 Henderson, George, Philadelphia.
 Hendry, John Burke (London, Eng.), Philadelphia.
 Hensel, W. U., Lancaster.
 Hertzog, D. M., Uniontown.
 Hewitt, Luther E., Philadelphia.
 †Hice, Agnew, Beaver.
 Hicks, Thomas M. B., Williamsport.
 Hiester, Isaac, Reading.
 Hopwood, R. F., Uniontown.
 Howson, Charles, Philadelphia.
 Hunter, Ernest Howard, Philadelphia.
 †Irwin, Ernest C., Pittsburgh.
 †James, Henry A., Doylestown.
 Jayne, H. LaBarre, Philadelphia.
 Jenks, Robert D., Philadelphia.
 Jones, J. Levering, Philadelphia.
 †Jones, James Collins, Philadelphia.
 Jones, Richmond L., Reading.
 Kane, Francis Fisher, Philadelphia.
 Kay, James I., Pittsburgh.
 Kefover, Charles F., Uniontown.
 Knight, Harry S., Sunbury.
 Knox, Philander C. (Washington, D. C.), Pittsburgh.
 †Kready, B. Frank, Lancaster.
 †Kunkle, John E., Greensburg.
 Lackey, Thomas S., Uniontown.
 Lamberton, James M., Harrisburg.
 Landis, Charles I., Lancaster.
 Leonard, Frederick M., Philadelphia.
 Lewis, Francis D., Philadelphia.
 Lewis, George Calvert, Pittsburgh.
 Lewis, John F., Philadelphia.
 Lewis, W. Draper, Philadelphia.
 Lindsey, Edward, Warren.
 †Linn, Andrew M., Washington.
 Linn, William B., Philadelphia.
 Lloyd, Malcolm, Jr., Philadelphia.

Long, Howard Marshall, Philadelphia.
 Lyon, Walter, Pittsburgh.
 MacEldowney, William A., Philadelphia.
 Martin, J. Willis, Philadelphia.
 †Mason, Wm. Clark, Philadelphia.
 Mercur, Rodney A., Towanda.
 Mervine, Nicholas P., Altoona.
 Mestrezat, S. Lealie, Uniontown.
 †Michener, Edwin O., Philadelphia.
 Mikell, William E., Philadelphia.
 Miller, E. Spencer, Philadelphia.
 Miner, Sidney R., Wilkes Barre.
 Moorhead, Forest G., Beaver.
 Morgan, Charles E., Jr., Philadelphia.
 Morgan, Randal, Philadelphia.
 Morris, Roland S., Philadelphia.
 Munson, C. LaRue, Williamsport.
 McClay, Samuel, Pittsburgh.
 McClintock, Andrew H., Wilkes-Barre.
 McClung, Wm. H., Pittsburgh.
 McClure, Harold M., Lewisburg.
 McCouch, H. Gordon, Philadelphia.
 †McDevitt, John J., Jr., Philadelphia.
 McKeehan, Joseph P., Carlisle.
 Neilsen, William L., Philadelphia.
 Nichols, H. S. P., Philadelphia.
 Niles, Henry C., York.
 O'Connor, Francis J., Johnstown.
 Olmsted, Marlin E., Harrisburg.
 †Orlady, George B., Huntingdon.
 Page, Howard Wurts, Philadelphia.
 Page, S. Davis, Philadelphia.
 Palmer, Henry W., Wilkes Barre.
 Patterson, George S., Philadelphia.
 Patterson, Roswell H., Scranton.
 Patterson, T. Ellis, Philadelphia.
 Patterson, Thomas, Pittsburgh.
 †Pennypacker, Bevan Aubrey, Germantown.
 Pennypacker, Samuel W., Schuylkill.
 †Pepper, B. Franklin, Philadelphia.
 Pepper, George Wharton, Philadelphia.
 Pettit, Horace, Philadelphia.
 Phillips, Alfred Ingersoll, Philadelphia.
 Playford, R. W., Uniontown.
 Porter, William D., Pittsburgh.
 †Potter, William P., Swarthmore.
 Prichard, Frank P., Philadelphia.
 Prince, Leon O., Carlisle.
 Ralston, Robert, Philadelphia.
 Rawie, Francis, Philadelphia.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Beardon, John J., Williamsport.
 Reed, David Aiken, Pittsburgh.
 Reed, James H., Pittsburgh.
 Rehm, William C., Lancaster.
 Reid, Ambrose B., Pittsburgh.
 †Reilly, Paul, Philadelphia.
 †Rice, Charles E., Wilkes-Barre.
 Rice, William E., Warren.
 Richardson, E. Stanley, Philadelphia.
 †Roberts, C. Wilson, Philadelphia.
 Roberts, Owen J., Philadelphia.
 Robinson, Harold L., Uniontown.
 Robinson, V. Gilpin, Philadelphia.
 †Rogers, James S., Philadelphia.
 Rowe, Leo Stanton, Philadelphia.
 Ruhl, Christian H., Reading.
 Runk, Louis Barcroft, Philadelphia.
 Ryon, William W., Shamokin.
 Schaffer, William I., Chester.
 Schwartz, Sydney A., Titusville.
 †Scott, John, Jr., Philadelphia.
 Scoville, Samuel, Jr., Philadelphia.
 Seibert, William N., New Bloomfield.
 †Seymour, Warren I., Pittsburgh.
 †Shapira, Samuel S., Pittsburgh.
 †Shattuck, Frank R., Philadelphia.
 Shaw, George E., Pittsburgh.
 Shick, Robert P., Philadelphia.
 Shields, James M., Pittsburgh.
 Shiras, George, Jr., (Washington, D. C.),
 Pittsburgh.
 †Shoyer, Frederick J., Philadelphia.
 †Simkins, Daniel W., Philadelphia.
 Simpson, Alexander, Jr., Philadelphia.
 Smead, Alexander D. B., Carlisle.
 Smith, Alfred Percival, Philadelphia.
 Smith, Edwin W., Pittsburgh.
 Smith, Thomas Kilby, Philadelphia.
 Smith, Walter George, Philadelphia.
 Smithers, William W., Philadelphia.
 Snare, Jacob, Philadelphia.
 Snodgrass, Robert, Harrisburg.
 Staake, William H., Philadelphia.
 †Stambaugh, Harry F., Pittsburgh.
 Steele, Henry J., Easton.
 Sterrett, James R., Pittsburgh.
 Stewart, William M., Jr., Philadelphia.
 Stewart, Russell C., Easton.
 Stewart, W. F. Bay, York.
 †Stockwell, Herbert G., Philadelphia.
 Stoever, William C., Philadelphia.
 Stoughton, A. B., Philadelphia.

Stroh, Charles C., Harrisburg.
 Sturgis, W. J., Uniontown.
 Sulzberger, Mayer, Philadelphia.
 †Sutton, Robert Woods, Pittsburgh.
 Swartley, Francis K., Philadelphia.
 Swearingen, J. M., Pittsburgh.
 Synnestvedt, Paul, Pittsburgh.
 Taulane, Joseph H., Philadelphia.
 Taylor, Joseph T., Philadelphia.
 Thomas, Samuel Hinds, Philadelphia.
 Thompson, A. M., Pittsburgh.
 Todd, M. Hampton, Philadelphia.
 Townsend, Charles C., Philadelphia.
 Trickett, William, Carlisle.
 Turner, William Jay, Philadelphia.
 Tustin, Ernest L., Philadelphia.
 Umbel, Robert E., Uniontown.
 Vale, Ruby R., Philadelphia.
 Van Dusen, Louis H., Philadelphia.
 Viti, Marcel A., Philadelphia.
 von Moschizaker, Robert, Philadelphia.
 Wagner, George M., Philadelphia.
 †Wallerstein, David, Philadelphia.
 Walton, Henry F., Philadelphia.
 Watson, David Thompson, Pittsburgh.
 Watterson, A. V. D., Pittsburgh.
 Way, William A., Pittsburgh.
 Weaver, John, Philadelphia.
 Weil, A. Leo, Pittsburgh.
 Weiner, Albert B., Philadelphia.
 Wendt, John S., Pittsburgh.
 Wetherill, Charles, Philadelphia.
 Wetherill, John Lawrence, Philadelphia.
 Whitlock, Henry O., Philadelphia.
 Williams, Ira Jewell, Philadelphia.
 Williams, J. Henry, Philadelphia.
 Windle, William S., West Chester.
 Winternitz, Benjamin A., New Castle.
 Wintersteen, Abram H., Philadelphia.
 Wise, Jesse H., Pittsburgh.
 †Wolf, Morris, Philadelphia.
 Woodruff, Clinton Rogers, Philadelphia.
 Woodward, John Butler, Wilkes-Barre.
 Work, James C., Uniontown.
 †Zimmerman, S. R., Lancaster.

PHILIPPINE ISLANDS.

Bruce, Edward B., Manila.
 Elliott, Charles B., Manila.
 Gilbert, Newton W., Manila.
 Welch, Thomas Cary, Manila.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

PORTO RICO.

Diego, Jose de, Mayaguez.
 Feliu, Leopoldo, Mayaguez.
 †Guillermety, Rafael, San Juan.
 Morales, Luis Munoz, San Juan.
 Negroni, J. Salvador Amill, Mayaguez.
 Pettinghill, N. B. K., San Juan.
 Rodriguez-Serra, Manuel, San Juan.
 †Taxidor, Jacinto, San Juan.
 Toro, Emilio del, San Juan.
 Usera, Jose Hernandez, San Juan.

RHODE ISLAND.

Aldrich, Clarence A., Providence.
 Angell, Walter F., Providence.
 Baker, Albert A., Providence.
 Baker, Darius, Newport.
 Ballou, Daniel B., Providence.
 Barney, Walter H., Providence.
 Barrows, Chester W., Providence.
 †Bos, Henry M., Jr., Providence.
 Bosworth, Orrin L., Bristol.
 Bowen, Wm. M. P., Providence.
 †Brown, George T., Providence.
 Brownell, Edward L., Providence.
 †Burdick, Clark, Newport.
 Canning, John E., Providence.
 Churchill, Alex. L., Providence.
 Colt, LeBaron B., Providence.
 Comstock, Richard B., Providence.
 Cram, Henry C., Providence.
 †Curran, Patrick Paul, Providence.
 Curtis, Harry C., Providence.
 Eaton, Amasa M., Providence.
 Edwards, Seeber, Providence.
 Edwards, Stephen O., Providence.
 †Gardner, Percy W., Providence.
 Gardner, Rathbone, Providence.
 Greenough, William B., Providence.
 Heffernan, John J., Woonsocket.
 †Henshaw, John, Providence.
 Higgins, James H., Providence.
 Hinckley, Frank L., Providence.
 Hogan, John W., Providence.
 Huddy, George H., Jr., Providence.
 Jenckes, Thomas A., Providence.
 Lee, Thomas Zanaiaur, Providence.
 Lewis, Nathan B., West Kingston.
 Littlefield, Nathan W., Providence.
 Lyman, Richard E., Providence.
 Matteson, Archibald C., Providence.
 Matteson, Charles, Providence.

Morgan, William A., Providence.
 Mumford, Charles C., Providence.
 Murdock, John S., Providence.
 McCaffrey, Joseph J., Providence.
 McDonnell, Thomas F. I., Providence.
 O'Shaunessy, George F., Providence.
 Pierce, James Aldrich, Providence.
 Potter, Dexter B., Providence.
 †Rice, Herbert A., Providence.
 Rich, William G., Woonsocket.
 Sheffield, Wm. P., Newport.
 †Stearns, Charles F., Providence.
 Stinnes, Edward C., Providence.
 Thornley, William H., Providence.
 Thurston, Wilmarth H., Providence.
 Tillinghast, Frank W., Providence.
 Tillinghast, James, Providence.
 Tillinghast, William R., Providence.
 Waterman, Lewis Anthony, Providence.
 Wilson, Charles A., Providence.
 Woods, John Carter Brown, Providence.

SOUTH CAROLINA.

Allen, Thomas, Anderson.
 Barron, Charles H., Columbia.
 Benet, Christie, Columbia.
 Bomar, Horace Leland, Spartanburg.
 Bonham, Milledge L., Anderson.
 Buist, Henry, Charleston.
 Clark, Washington, Columbia.
 Earle, Claude B., Anderson.
 Earle, Wilton H., Greenville.
 Efrd, C. M., Lexington.
 Evans, John Gray, Spartanburg.
 Fitz Simons, W. Huger, Charleston.
 Frierson, James Nelson, Columbia.
 Frost, Frank Ravenel, Charleston.
 Gibbs, Hunter A., Columbia.
 Greene, William P., Abbeville.
 Hagood, Benjamin, Charleston.
 Haynsworth, Henry J., Greenville.
 Herbert, B. Beverly, Columbia.
 Holman, W. A., Charleston.
 Hyde, Simeon, Charleston.
 Jaynes, Robert T., Walhalla.
 †Lide, L. D., Marion.
 Lyles, William H., Columbia.
 Mordecai, T. Moultrie, Charleston.
 Martin, Benjamin F., Anderson.
 Mauldin, Oscar K., Greenville.
 Mower, George Sewall, Newberry.
 McMahon, John J., Columbia.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

McSwain, J. J., Greenville.
 Nelson, Patrick H., Columbia.
 Nelson, William S., Columbia.
 Otta, James C., Spartanburg.
 Quattlebaum, Julius W., Anderson.
 Rice, Leon L., Anderson.
 Robinson, David W., Columbia.
 †Scaife, Hazel L., Clinton.
 Simms, Charles Carroll, Barnwell.
 Sirrine, William G., Greenville.
 Smythe, Augustine T., Charleston.
 Thomas, John P., Jr., Columbia.
 Walker, Legare, Summerville.
 Watkins, Henry H., Anderson.
 Wetmore, Silas MacBee, Spartanburg.
 Willcox, P. Alstin, Florence.
 Woods, Charles Albert, Marion.

SOUTH DAKOTA.

Alkena, Frank R., Sioux Falls.
 Bailey, Charles O., Sioux Falls.
 †Bouck, Thomas L., Milbank.
 †Boyce, J. W., Sioux Falls.
 †Bruell, Wm. F., Redfield.
 †Buell, Charles J., Rapid City.
 †Burton, Robert, Rapid City.
 Cherry, U. S. G., Sioux Falls.
 †Christopherson, Chas. A., Sioux Falls.
 Crawford, Coe L., Huron.
 Crawford, D. A., De Smet.
 †Danforth, George J., Sioux Falls.
 Fairbank, Arthur B., Huron.
 Gaffy, Loring E., Pierre.
 Gardner, A. K., Huron.
 George, James A., Deadwood.
 Hanten, John B., Watertown.
 Isenhuth, William, Redfield.
 Johnson, Royal C., Highmore.
 †Jones, Elbert O., Sioux Falls.
 †Judge, Harold E., Sioux Falls.
 Kellar, Chambers, Lead City.
 †Kirby, Joe, Sioux Falls.
 Lawton, James Marshall, Aberdeen.
 Mason, Norman T., Deadwood.
 †Morris, C. J., Sioux Falls.
 †Muller, Henry A., Sioux Falls.
 Payne, Jason E., Vermillion.
 Porter, William Gove, Aberdeen.
 Rice, William G., Deadwood.
 Sherwood, Carl G., Clark.
 Sterling, Thomas, Vermillion.
 Taylor, Alva E., Huron.

Teigen, Tore, Sioux Falls.
 Voorhees, John H., Sioux Falls.
 Wagner, E. E., Mitchell.
 Whiting, Charles S., Pierre.

TENNESSEE.

Acklen, J. H., Nashville.
 Allison, John, Nashville.
 Anderson, Harry Bennett, Memphis.
 Banks, Lemuel, Memphis.
 Barthell, Edward E., Nashville.
 Barton, E. M., Jr., Memphis.
 Bass, Frank M., Nashville.
 Baxter, E. J., Jonesboro.
 Barter, Schloss D., Nashville.
 Bearden, Walter S., Shelbyville.
 Bell, B. D., Gallatin.
 Benson, J. O., Chattanooga.
 Biggs, Albert W., Memphis.
 Bond, Chester G., Jackson.
 Boyd, Clarence T., Nashville.
 Brock, Lee, Nashville.
 Brown, Foster V., Chattanooga.
 Bryan, Charles M., Memphis.
 Buchanan, A. S., Memphis.
 Buntin, W. Allison, Nashville.
 Burch, Charles N., Memphis.
 Cain, Stith M., Nashville.
 Caldwell, Waller C., Trenton.
 Cameron, Robert Thomas, Chattanooga.
 Camp, E. C., Knoxville.
 Campbell, Lemuel R., Nashville.
 Canada, J. W., Memphis.
 Cantrell, John H., Chattanooga.
 Carroll, William H., Memphis.
 Cates, Charles T., Jr., Knoxville.
 †Cavett, W. G., Memphis.
 Chambliss, Alexander W., Chattanooga.
 Chamlee, Geo. W., Chattanooga.
 Coleman, Lewis Minor, Chattanooga.
 Cooke, Robert B., Chattanooga.
 Cox, James B., Knoxville.
 Dickinson, J. M., Nashville.
 Donaldson, William Jay, Knoxville.
 Eddington, T. B., Memphis.
 Evans, Charles R., Chattanooga.
 Farley, John W., Memphis.
 Fisher, Hubert Frederick, Memphis.
 Fitzhugh, G. T., Memphis.
 Fletcher, John Storrs, Chattanooga.
 Frantz, John Henry, Knoxville.
 Frazier, J. B., Chattanooga.

† Elected by Executive Committee between meetings, 1911-12.

: Elected by Association at annual meeting, 1912.

Frierson, William L., Chattanooga.
 Gaines, Albert W., Chattanooga.
 Garner, C. H., Tracy City.
 †Gates, Elias, Memphis.
 Gerding, George F., Knoxville.
 Granberry, William L., Nashville.
 Grayson, D. L., Chattanooga.
 Green, John W., Knoxville.
 Hall, Allen G., Nashville.
 Handly, Avery, Nashville.
 Harrison, C. Raleigh, Knoxville.
 Howell, R. Boyle C., Nashville.
 Hughes, Allen, Memphis.
 Hughes, George T., Columbia.
 Ingersoll, Henry H., Knoxville.
 Keeble, John B., Nashville.
 Lancaster, George D., Chattanooga.
 Lea, Luke, Nashville.
 Lillard, J. W., Decatur.
 Littleton, Jesse M., Winchester.
 Lucky, Cornelius E., Knoxville.
 Lynch, J. J., Chattanooga.
 Maddin, Percy D., Nashville.
 Malone, Thomas H., Jr., Nashville.
 Martin, Francis, Chattanooga.
 Mayfield, J. E., Cleveland.
 Maynard, James, Jr., Knoxville.
 Metcalf, Charles W., Memphis.
 Metcalf, William P., Memphis.
 Miller, Charles A., Bolivar.
 Miller, W. B., Chattanooga.
 Minor, H. Dent, Memphis.
 Moore, Felix W., Union City.
 Moore, Samuel E. N., Johnson City.
 Mountcastle, R. E. L., Knoxville.
 McNutt, John F., Rockwood.
 McTeer, Will A., Maryville.
 Neil, M. M., Trenton.
 Newman, Claire B., Jackson.
 †O'Connor, M. P., Nashville.
 Osborne, A. L., Bristol.
 Owens, William A., La Follette.
 Phelan, Patrick Henry, Jr., Memphis.
 Pilcher, James Stuart, Nashville.
 Pitts, John A., Nashville.
 Powell, George M., Johnson City.
 Powell, J. Norment, Johnson City.
 St. John, Charles J., Bristol.
 Sanford, Edward T., Knoxville.
 Sansom, Richard H., Knoxville.
 Savage, Michael, Clarksville.

Scott, Alexander Y., Memphis.
 Shelton, H. H., Bristol.
 Smith, Charles H., Knoxville.
 Smith, Gilmer P., Memphis.
 Smith, Henry E., Nashville.
 Smith, John L., Cleveland.
 Smith, Robert T., Nashville.
 Smith, Samuel Bosworth, Chattanooga.
 Smith, Wm. T., Sparta.
 †Smithson, Noble, Knoxville.
 Spears, W. D., Chattanooga.
 Steen, J. M., Memphis.
 Stewart, T. Lawrence, Jasper.
 Stokes, Gordon, Nashville.
 Stout, J. W., Cumberland City.
 Strang, S. Bartow, Chattanooga.
 Swaney, W. B., Chattanooga.
 Tate, Hugh M., Knoxville.
 Thomas, W. G. M., Chattanooga.
 Tillman, A. M., Nashville.
 †Trabue, Charles C., Nashville.
 Trimble, James M., Chattanooga.
 Turney, John E., Nashville.
 Tyne, Thomas J., Nashville.
 Van Deventer, Horace, Knoxville.
 Vaughn, Robert, Nashville.
 Vertrees, John J., Nashville.
 Waller, Claude, Nashville.
 White, George Thomas, Chattanooga.
 Williams, Joe V., Chattanooga.
 Williams, Samuel C., Johnson City.
 Wilson, Julian C., Memphis.
 Wright, James B., Knoxville.
 Young, David K., Clinton.
 Young, J. P., Memphis.

TEXAS.

Autry, James L., Houston.
 Baker, James A., Houston.
 Bartholomew, William T., San Angelo.
 †Beaty, Amos L., Houston.
 †Bramlett, Walter Sherwood, Dallas.
 †Burford, Albert Lee, Texarkana.
 Burges, William H., El Paso.
 Carter, H. C., San Antonio.
 Coke, Henry C., Dallas.
 †Crawford, Walter J., Beaumont.
 Crook, W. M., Beaumont.
 Davis, John, Dallas.
 Dyer, John L., El Paso.
 Edwards, Peyton F., El Paso.
 †Estes, W. L., Texarkana.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

†Frank, David A., Dallas.
 †Franklin, Thomas H., San Antonio.
 †Gary, Hampeon, Tyler.
 Glass, Hiram, Austin.
 †Gordon, W. D., Beaumont.
 †Greer, D. Edward, Beaumont.
 †Greer, George C., Beaumont.
 †Greer, R. A., Beaumont.
 †Hicks, Yale, San Antonio.
 Hume, F. Charles, Jr., Houston.
 †Jones, Frank Cameron, Houston.
 Keller, C. A., San Antonio.
 †Kleberg, M. E., Galveston.
 †Mahaffey, J. Q., Texarkana.
 McClendon, James W., Austin.
 McCormick, Joseph Manson, Dallas.
 McLaurin, Lauch, Austin.
 Phillips, Nelson, Dallas.
 Pollard, Claude, Kingsville.
 Potter, C. C., Gainesville.
 †Proctor, F. C., Beaumont.
 †Read, Cloyd H., Dallas.
 †Rodgers, Rollin W., Texarkana.
 Samuels, Sidney L., Fort Worth.
 †Saner, John C., Dallas.
 Saner, Robert E. Lee, Dallas.
 Sanford, Allan D., Waco.
 Searcy, William W., Brenham.
 Seay, Edward T., Gallatin.
 †Smith, Stuart E., Beaumont.
 Smithdeal, C. M., Hillsboro.
 Spoona, M. A., Fort Worth.
 †Stewart, Maco, Galveston.
 Street, Robert G., Galveston.
 Tarlton, B. D., Austin.
 †Taub, Otto, Houston.
 Terry, J. W., Galveston.
 †Todd, Oliver J., Beaumont.
 Townes, John C., Austin.
 †Williamson, James D., Waco.
 Woods, J. H., Corsicana.

UTAH.

†Allison, Edward M., Jr., Salt Lake City.
 †Baker, Louis L., Tooele City.
 Barrette, William J., Salt Lake City.
 Critchlow, Edward B., Salt Lake City.
 †Dickson, Wm. H., Salt Lake City.
 Gibson, George J., Salt Lake City.
 †Henderson, Hiram Hunt, Ogden.
 Hollingsworth, Charles B., Ogden.

Kinney, Clesson S., Salt Lake City.
 McCrea, Wm. M., Salt Lake City.
 †O'Donnell, Thomas W., Vernal.
 †Olson, Culbert L., Salt Lake City.
 Parsons, Charles C., Salt Lake City.
 Powers, O. W., Salt Lake City.
 †Senior, Edwin W., Salt Lake City.
 Smith, George H., Salt Lake City.
 Snyder, Wilson I., Salt Lake City.
 Story, William, Salt Lake City.
 †Thompson, John Walcott, Salt Lake City.
 Van Cott, Waldemar, Salt Lake City.
 Varian, Charles S., Salt Lake City.
 Whitecotton, J. W. N., Provo.
 Williams, P. L., Salt Lake City.
 Wilson, Mahlen E., Salt Lake City.

VERMONT.

†Austin, Warren R., St. Albans.
 Batchelder, Wallace, Bethel.
 Butler, Frederick M., Rutland.
 †Buttles, John S., Rutland.
 †Deavitt, Thomas J., Montpelier.
 †Dunnett, Alexander, Johnsburg.
 †Hogan, George M., St. Albans.
 †Hopkins, Theodore E., Burlington.
 Miles, Willard W., Barton.
 McCullough, John G., No. Bennington.
 Prouty, Charles A. (Washington, D. C.),
 Newport.
 Robb, Charles H. (Washington, D. C.),
 Bellows Falls.
 Sargent, John G., Ludlow.
 †Stickney, Wm. B. C., Rutland.
 Taft, Elihu B., Burlington.
 Webber, Marvella C., Rutland.
 Young, George B., Newport.

VIRGINIA.

Adams, Richard H. T., Jr., Lynchburg.
 Anderson, Henry W., Richmond.
 Barbour, John S., Fairfax.
 Braxton, A. C., Richmond.
 Bryan, George, Richmond.
 †Bryan, Thomas Pinckney, Richmond.
 Bullitt, Joshua F., Big Stone Gap.
 Cabell, P. H. C., Richmond.
 Caton, James R., Alexandria.
 Christian, Frank P., Lynchburg.
 Cocke, Lucian H., Roanoke.
 Corbitt, James H., Suffolk.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Cox, William Ruffin, Richmond.
 Crump, Beverly T., Richmond.
 Davis, Charles Hall, Petersburg.
 Davis, Richard B., Petersburg.
 Davis, Richard J., Portsmouth.
 Flood, H. D., Appomattox.
 Fulton, Minitree Jones, Richmond.
 Garnett, Theodore S., Norfolk.
 †Gayle, John B., Richmond.
 Gilliam, Marshall M., Richmond.
 Graves, Charles A., Univ. of Va.
 Gregory, Roger, Elsing Green.
 Griffin, S., Bedford City.
 Grinnan, Daniel, Richmond.
 Guigon, A. B., Richmond.
 Gunn, Julien, Richmond.
 Hamilton, Alexander, Petersburg.
 Harper, Fred, Lynchburg.
 Harrison, Randolph, Lynchburg.
 Hatton, Goodrich, Portsmouth.
 Heath, James Elliott, Norfolk.
 Hughes, Robert M., Norfolk.
 Hunton, Epps, Jr., Richmond.
 Jenkins, John B., Norfolk.
 †Johnson, Branch, Norfolk.
 Keith, J. A. C., Warrenton.
 †Keith, Thomas R., Fairfax.
 Lewis, Lunsford L., Richmond.
 Lile, William Minor, Charlottesville.
 Long, Armistead R., Lynchburg.
 Loyal, W. H. T., Norfolk.
 †Marr, Richard H., Petersburg.
 Massie, Eugene O., Richmond.
 Meredith, Charles V., Richmond.
 Minor, Raleigh C., Charlottesville.
 Murrell, William M., Lynchburg.
 McHugh, Charles A., Roanoke.
 Old, William W., Jr., Norfolk.
 Page, Rosewell, Richmond.
 Parrish, Robert L., Covington.
 Patterson, A. W., Richmond.
 Patteson, S. S. P., Richmond.
 Pickrell, John, Richmond.
 Pollard, Henry R., Richmond.
 Prentiss, Robert R., Suffolk.
 †Riddleberger, Ralph H., Norfolk.
 Rodman, William Blount, Norfolk.
 Rutherford, John, Richmond.
 Seaton, Emmett, Richmond.
 Shelton, Thomas Wall, Norfolk.
 Smith, Willis B., Richmond.
 Stern, Jo. Lane, Richmond.

Tennant, W. Brydon, Richmond.
 Thomason, Edwin Brawne, Richmond.
 Tucker, Henry St. George, Lexington.
 Tunstall, Robert B., Norfolk.
 Watts, Legh R., Portsmouth.
 †Weaver, Aubrey, G., Front Royal.
 Wellford, Beverly Randolph, Richmond.
 White, Benjamin D., Norfolk.
 White, William Henry, Jr., Norfolk.
 Williams, E. Randolph, Richmond.
 Williams, Wm. Leigh, Norfolk.
 Wingfield, Gustavus A., Norfolk.
 Wysor, Joseph C., Pulaski City.
 Yarrell, Leonidas D., Emporia.

WASHINGTON.

Abbott, William H., Bellingham.
 Albert, Charles S., Spokane.
 Albertson, Robert B., Seattle.
 Allison, William B., Seattle.
 Alston, Guy C., Everett.
 Ashton, James M., Tacoma.
 Avery, A. G., Spokane.
 Balliet, Andrew J., Seattle.
 Ballinger, Harry, Seattle.
 Ballinger, Richard A., Seattle.
 Barney, C. E., Seattle.
 Battle, Alfred, Seattle.
 Bausman, Frederick, Seattle.
 †Belden, E. H., Spokane.
 Blaine, Elbert F., Seattle.
 Bogle, W. H., Seattle.
 Boner, W. W., Aberdeen.
 Bridgers, J. B., Aberdeen.
 Bronson, Ira, Seattle.
 Brooks, J. W., Walla Walla.
 Brown, Frederick V., Seattle.
 Bryson, Herbert C., Walla Walla.
 Bunn, John Marshall, Spokane.
 Burke, Thomas, Seattle.
 Byers, Alpheus, Seattle.
 †Byers, Ovid A., Seattle.
 Callahan, James P. H., Hoquiam.
 Cannon, E. J., Spokane.
 Carr, E. M., Seattle.
 Chester, L. F., Spokane.
 Clifford, M. L., Tacoma.
 Coleman, J. A., Everett.
 Condon, John T., Seattle.
 Crow, Herman D., Olympia.
 Cullen, W. E., Spokane.
 Cushman, Edward E., Tacoma.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Danson, R. J., Spokane.
 Dawson, Wm. Sherman, Spokane.
 DeBruler, Ellis, Seattle.
 Delle, Lee C., North Yakima.
 De Steiguer, George E., Seattle.
 Dewart, Frederick W., Spokane.
 Donworth, George, Seattle.
 Dorr, Charles W., Seattle.
 Dovell, W. T., Seattle.
 Dudley, Frederick M., Seattle.
 Dunphy, W. H., Walla Walla.
 Edge, Lester P., Spokane.
 Edwards, Marion, Seattle.
 Englehart, Ira P., North Yakima.
 Evans, Marvin, Walla Walla.
 Everett, Willis Eugene, Tacoma.
 Farrell, C. H., Seattle.
 Faussett, R. J., Everett.
 Flewellling, Albert L., Spokane.
 Folson, Myron A., Spokane.
 Force, H. C., Seattle.
 Fulton, Walter S., Seattle.
 Garrecht, F. A., Walla Walla.
 Gaston, O. C., Everett.
 Gorham, William H., Seattle.
 Gose, C. C., Walla Walla.
 Gose, M. F., Olympia.
 Gose, T. P., Walla Walla.
 Graves, Will G., Spokane.
 Greene, Roger S., Seattle.
 Griggs, Herbert S., Tacoma.
 Grosscup, Benjamin S., Tacoma.
 Hadley, A. M., Bellingham.
 Hadley, Hiram E., Seattle.
 Hadley, Lin H., Bellingham.
 Hall, Calvin S., Seattle.
 Halverstadt, Dallas V., Seattle.
 Hamble, L. R., Spokane.
 Hanford, Cornelius H., Seattle.
 Happy, Cyrus, Spokane.
 Hartman, John P., Seattle.
 Hastings, H. H. A., Seattle.
 Herr, Willis B., Seattle.
 Higgins, John C., Seattle.
 Hodgdon, C. W., Hoquiam.
 Howard, Clinton W., Bellingham.
 Howe, James B., Seattle.
 Hoyt, John P., Seattle.
 Hughes, E. C., Seattle.
 Hulbert, Robert A., Seattle.
 Humphries, John E., Seattle.
 Humeke, William A., Spokane.

Husted, Earl W., Everett.
 Jones, Richard Saxe, Seattle.
 Keene, Walter A., Seattle.
 Kelleher, Daniel, Seattle.
 Kelleher, John, Seattle.
 Korte, George W., Seattle.
 Lane, Warren D., Seattle.
 Levy, Aubrey, Seattle.
 †Love, C. Morup N., Wilbur.
 Ludden, William H., Spokane.
 Lueders, Henry W., Tacoma.
 Lund, Charles P., Spokane.
 Lung, Henry W., Seattle.
 Main, John F., Seattle.
 Mendenhall, Mark F., Spokane.
 Miller, Fred, Spokane.
 Mitchell, John R., Olympia.
 Morgan, Frank L., Hoquiam.
 Morrison, Samuel, Seattle.
 Munday, Charles F., Seattle.
 Munn, George Ladd, Seattle.
 Murphy, James B., Seattle.
 Murray, Charles A., Tacoma.
 McClure, Henry F., Seattle.
 McClure, Walter A., Seattle.
 McClure, William E., Seattle.
 McCord, E. S., Seattle.
 McCroskey, R. L., Colfax.
 McMicken, Maurice, Seattle.
 McMillan, Raymond J., Tacoma.
 Nuzum, Richard W., Spokane.
 Oldham, Robert P., Seattle.
 †Padgett, Beale Edward, Everett.
 Parker, Emmett N., Olympia.
 Patterson, Charles E., Seattle.
 Pedigo, John H., Walla Walla.
 Peters, W. A., Seattle.
 Peterson, Fred H., Seattle.
 Piles, Samuel H., Seattle.
 Poindexter, Miles, Spokane.
 Post, Frank T., Spokane.
 Powell, John H., Seattle.
 Preston, Harold, Seattle.
 Ramsey, H. J., Seattle.
 Reid, George T., Tacoma.
 Reynolds, Allen H., Walla Walla.
 Rinehart, Wm. V., Jr., Seattle.
 Robb, Bamford A., Seattle.
 Roberts, John W., Seattle.
 Ronald, J. T., Seattle.
 Rupp, Otto B., Seattle.
 Savery, O. D., Tacoma.

† Elected by Executive Committee between meetings, 1911-12.

Schaffner, Walter, Seattle.
 Shackelford, John A., Tacoma.
 Shaffer, C. Will, Olympia.
 Sharpstein, John L., Walla Walla.
 Shepard, Charles E., Seattle.
 Smith, Winfield R., Seattle.
 Spooner, Charles P., Seattle.
 Stedman, Livingston B., Seattle.
 Stephens, H. M., Spokane.
 Sterne, Samuel R., Spokane.
 Stevenson, L. C., Tacoma.
 Tallman, Boyd J., Seattle.
 Terhune, R. S., Seattle.
 Todd, Elmer E., Seattle.
 Tolman, Warren W., Spokane.
 Totten, Wm. D., Seattle.
 Trefethen, D. B., Seattle.
 Trimble, William P., Seattle.
 Tucker, Wilmon, Seattle.
 Turner, George, Spokane.
 Turner, L. T., Seattle.
 Voorhees, Reese H., Spokane.
 Wakefield, William J. C., Spokane.
 Wilkinson, Adolphus C., North Yakima.
 Williams, James A., Spokane.
 Winders, C. H., Seattle.
 Winfree, W. H., Spokane.
 Worden, Warren A., Tacoma.

WEST VIRGINIA.

†Alderson, C. M., Charleston.
 Allen, Guy R. C., Wheeling.
 Ambler, B. Mason, Parkersburg.
 Anderson, Luther C., Welch.
 Archer, Vachel B., Parkersburg.
 †Bowers, E. A., Elkins.
 Brannon, W. W., Weston.
 †Breckinridge, A. N., Summersville.
 †Bumgardner, J. Lewis, Beckley.
 †Camden, H. P., Parkersburg.
 Chilton, Wm. Edwin, Charleston.
 Clay, Buckner, Charleston.
 Cooper, John T., Parkersburg.
 †Crockett, Z. W., Bluefield.
 Davis, Dabney C. T., Jr., Charleston.
 †Davis, John W., Clarksburg.
 Davis, Staige, Charleston.
 †Dice, Charles S., Lewisburg.
 Dillon, C. W., Fayetteville.
 †Dorr, C. P., Webster Springs (Washington, D. C.).
 †Easley, D. M., Bluefield.

Ewing, James W., Wheeling.
 †Faulkner, Charles J., Martinsburg.
 †File, Ashton, Beckley.
 †French, D. E., Bluefield.
 Goodykoontz, Wells, Williamsom.
 †Henry, John Randolph, Princeton.
 Higginbotham, C. C., Buckhannon.
 Hogg, Charles E., Morgantown.
 Hubbard, Nelson C., Wheeling.
 Hubbard, William P., Wheeling.
 Hughes, William W., Welch.
 Jeffords, Tracy L., Harpers Ferry.
 †Kahle, James S., Bluefield.
 Knight, Edward W., Charleston.
 Kreps, Charles A., Parkersburg.
 †Kump, H. G., Elkins.
 †Loeb, Leo, Charleston.
 †Marcum, J. R., Huntington.
 †Martin, Clarence E., Martinsburg.
 Merrick, Charles D., Parkersburg.
 Miller, William N., Parkersburg.
 Moats, Francis P., Parkersburg.
 McComie, Charles, Wheeling.
 †McGraw, John T., Grafton.
 McDougle, Walter E., Parkersburg.
 †McWhorter, Henry C., Charleston.
 †Neal, George I., Huntington.
 Ogden, Howard N., Fairmont.
 Osenton, C. W., Fayetteville.
 Payne, James M., Charleston.
 Payne, William D., Charleston.
 Price, George E., Charleston.
 †Richards, H. C., Wheeling.
 Ritz, Harold A., Bluefield.
 †Robinson, Ira E., Charleston.
 †Robinson, J. W., Grafton.
 Sanders, Joseph M., Bluefield.
 †Scherr, Harry, Williamsom.
 †Shaw, Harry, Fairmount.
 †Shrewsbury, George H., Charleston.
 †Simms, John T., Fayetteville.
 Smith, Edward Grandison, Clarksburg.
 †Smith, Harrison Brooks, Charleston.
 Smith, Harvey F., Clarksburg.
 Sommerville, J. B., Wheeling.
 Spilman, Robert S., Charleston.
 Stokes, Wyndham, Welch.
 Strother, D. J. F., Welch.
 Strother, James French, Welch.
 Tavenner, Lewis A., Parkersburg.
 Turner, Smith D., Parkersburg.
 †Valentine, A. Jay, Parsons.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Vandervort, James W., Parkersburg.
 Van Winkle, W. W., Parkersburg.
 Watts, Cornelius C., Charleston.
 †Wells, Rose, St. Mary's.
 White, Robert, Wheeling.
 †Wilkinson, John B., Logan.
 †Williams, L. Judson, Charleston.
 Willis, M. H., New Martinsville.
 Wolfe, William Henry, Parkersburg.
 †Woods, John M., Martinsburg.

WISCONSIN.

†Aarons, Charles L., Milwaukee.
 †Adams, H. W., Beloit.
 †Armin, Charles E., Waukesha.
 †Aylward, John A., Madison.
 †Babb, Max Wellington, Milwaukee.
 Backus, Augustus C., Milwaukee.
 †Baensch, Emil, Manitowoc.
 Bagley, William R., Madison.
 †Baker, Norman L., Milwaukee.
 †Bancroft, L. H., Richland Center.
 Barber, Charles, Oshkosh.
 †Barry, Arthur R., Milwaukee.
 †Barry, Michael, Phillips.
 Bartlett, William Pitt, Eau Claire.
 †Belitz, Arthur F., Madison.
 Bemis, Harry E., Milwaukee.
 †Bennett, John Henry, Viroqua.
 †Bird, Claire B., Wausau.
 †Black, W. E., Milwaukee.
 †Blake, Chauncey E., Madison.
 Bloodgood, Francis, Jr., Milwaukee.
 †Bloodgood, Wheeler P., Milwaukee.
 †Boessel, Frank Tilden, Milwaukee.
 Bohmrich, Louis G., Milwaukee.
 †Bottensack, John, Appleton.
 †Bradford, Francis S., Appleton.
 Brown, Neal, Wausau.
 †Bugbee, A. L., Shell Lake.
 †Bump, Franklin E., Wausau.
 Butler, Harry L., Madison.
 †Carbyn, J. O., Milwaukee.
 †Carpenter, Paul D., Milwaukee.
 Cary, Alfred L., Milwaukee.
 †Churchill, Wm. H., Milwaukee.
 †Clark, Homer C., Neillsville.
 †Clarke, Orlando E., Appleton.
 †Corrigan, Walter D., Milwaukee.
 †Dahlman, Louis A., Milwaukee.
 †Davies, Joseph E., Madison.
 †Doerfer, Christian, Milwaukee.
 †Dunwiddie, John D., Monroe.
 †Durant, Paul D., Milwaukee.
 †Eastman, E. C., Marinette.
 †Ekern, Herman L., Madison.
 †Els, Emerson, Madison.
 †Ellis, Fred. Chas., Milwaukee.
 †Eschweiler, F. C., Milwaukee.
 †Estabrook, Charles E., Milwaukee.
 Evans, Wm. L., Green Bay.
 Fairchild, Arthur H., Milwaukee.
 Fairchild, Hiram O., Green Bay.
 †Fawcett, Charles F., Milwaukee.
 †Fish, Irving A., Milwaukee.
 Flanders, James G., Milwaukee.
 †Fowler, Chester A., Fond du Lac.
 †Freeman, Robert R., Milwaukee.
 †Friend, Charles, Milwaukee.
 †Fritz, Oscar M., Milwaukee.
 Frost, Edward W., Milwaukee.
 †Furlong, William E., Milwaukee.
 †Gabel, George H., Milwaukee.
 Gauerke, John W., Green Bay.
 †Geiger, Ferdinand A., Milwaukee.
 †Geilfuss, Carl F., Milwaukee.
 †Gill, Archie D., Mauston.
 Gilmore, Eugene Allen, Madison.
 Gilson, Norman S., Fond du Lac.
 Glicksman, Nathan, Milwaukee.
 Goff, Guy D., Milwaukee.
 †Goggins, Bernard R., Grand Rapids.
 †Gold, Walter L., Milwaukee.
 †Goodwin, Henry D., Milwaukee.
 †Gordon, George H., LaCrosse.
 Grace, H. H., Superior.
 †Grady, Daniel H., Portage.
 †Green, Harrison S., Milwaukee.
 Greene, George G., Green Bay.
 †Halsey, Lawrence W., Milwaukee.
 Hamilton, C. H., Milwaukee.
 †Hammersley, Charles E., Milwaukee.
 Hannan, Timothy J., Milwaukee.
 †Hanson, Frank H., Mauston.
 †Harper, John F., Milwaukee.
 Hayes, William A., Milwaukee.
 †Hemlock, Daniel J., Waukesha.
 Henning, Edw. J., Milwaukee.
 †Heubschmann, Adolph, Milwaukee.
 †Hollister, R. A., Oshkosh.
 †Hooper, Moses, Oshkosh.
 †Houghton, Frank W., Milwaukee.
 †Hoyt, Frank M., Milwaukee.
 Hurley, Michael A., Wausau.

†Elected by Executive Committee between meetings, 1911-12.

‡Elected by Association at annual meeting, 1912.

- †Husting, Paul O., Mayville.
 Jackman, Ralph W., Madison.
 Jeffris, Malcolm G., Janesville.
 Jenkins, James G., Milwaukee.
 Jones, Burr W., Madison.
 †Jones, Granville D., Wausau.
 †Kaumheimer, Wm., Milwaukee.
 †Kellogg, Harry L., Milwaukee.
 †Kemper, Jackson B., Milwaukee.
 Kerwin, J. C., Neenah.
 Killilea, Henry J., Milwaukee.
 †Kittell, John A., Green Bay.
 †Kleist, John C., Milwaukee.
 †Lewis, Henry M., Madison.
 Lines, George, Milwaukee.
 †Lord, Irving P., Waupaca.
 Lorenzen, Ernest G. (New York, N. Y.), Madison.
 Ludwig, John C., Milwaukee.
 Lueck, Martin L., Juneau.
 †Lyon, Jay F., Elkhorn.
 †Mack, Edwin S., Milwaukee.
 †MacLeod, Arthur Wm., Washburn.
 Mallory, Rollin B., Milwaukee.
 Malone, James E., Juneau.
 †Mann, Charles D., Milwaukee.
 †Martin, Patrick H., Green Bay.
 †Martineau, Pierre A., Marinette.
 †Mason, Vroman, Madison.
 Matheson, Alexander E., Janesville.
 Maxon, Glenway, Milwaukee.
 †Merton, Ernst, Waukesha.
 Miller, Benjamin K., Milwaukee.
 Miller, George P., Milwaukee.
 †Minahan, Edmund D., Rhinelander.
 Monroe, Charles E., Milwaukee.
 †Morris, Charles M., Milwaukee.
 †Morsell, Arthur L., Milwaukee.
 Morton, George E., Milwaukee.
 Monat, Malcolm O., Janesville.
 †Mott, Mayhew, Neenah.
 †McConnell, John E., LaCrosse.
 †McGee, Charles A. A., Milwaukee.
 McGeoch, Arthur N., West Allis.
 †McGovern, Francis E., Madison.
 †McMillan, John W., Milwaukee.
 †McNamara, D. W., Montello.
 †Naber, Emil H., Mayville.
 †Nash, Archie L., Manitowoc.
 †Nash, Edwin G., Manitowoc.
 Nash, Lyman J., Manitowoc.
 †Neelen, Neele B., Milwaukee.
 Nemmers, E. P., Milwaukee.
 Neville, Arthur Couretney, Green Bay.
 Nolan, Thomas S., Janesville.
 North, Jerome Reynolds, Green Bay.
 †Noyes, George H., Milwaukee.
 †O'Connor, George E., Eagle River.
 †O'Connor, James L., Milwaukee.
 Ogden, Lewis M., Milwaukee.
 Olin, John M., Madison.
 Orton, Philo A., Darlington.
 †Palmer, Walter Curtis, Racine.
 †Parish, John K., Ashland.
 †Park, Byron B., Madison.
 Parker, Barton L., Green Bay.
 †Pednik, Samuel M., Ripon.
 †Pereles, Nathan, Jr., Milwaukee.
 Pereles, Thomas Jefferson, Milwaukee.
 Perry, Chas. Bennett, Milwaukee.
 †Proctor, H. P., Viroqua.
 †Quarles, William C., Milwaukee.
 Poss, Benjamin, Milwaukee.
 †Reid, A. H., Wausau.
 Richards, Harry S., Madison.
 Richmond, T. C., Madison.
 †Rix, Carl B., Milwaukee.
 †Roberts, D. E., Superior.
 †Robinson, Nathaniel S., Milwaukee.
 †Rosenberry, Marvin B., Wausau.
 †Runke, Richard B., Merrill.
 Sanborn, A. L., Madison.
 Sanborn, John Bell, Madison.
 †Sanderson, Thomas A., Sturgeon Bay.
 †Scanlan, Charles M., Milwaukee.
 †Scheiber, Frederick, Milwaukee.
 †Sheridan, Michael S., Milwaukee.
 †Schoellkopf, Henry, Milwaukee.
 Schubring, E. J. B., Madison.
 Seaman, William H., Sheboygan.
 †Shea, William F., Ashland.
 †Sickelsteel, D. I., Stevens Point.
 Stafford, W. H., Chippewa Falls.
 †Stebbins, Byron H., Madison.
 †Steele, W. M., Superior.
 †Stevens, E. Ray, Madison.
 †Stevens, John C., Jr., Milwaukee.
 †Stewart, Calvin, Kenosha.
 Sutherland, George G., Janesville.
 Swan, George Brewster, Beaver Dam.
 Swansen, Sam T., Madison.
 †Teall, Fred A., Milwaukee.
 †Thompson, Charles S., Milwaukee.
 †Thompson, John C., Oshkosh.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

Tibbs, William L., Milwaukee.
 Timlin, Wm. H., Milwaukee.
 †Trottmann, James F., Milwaukee.
 Turner, William J., Milwaukee.
 Umbreit, A. C., Milwaukee.
 †Upham, Horace A. J., Milwaukee.
 †Van Alstine, C. H., Milwaukee.
 †VanDyke, Douglass, Milwaukee.
 Van Dyke, George D., Milwaukee.
 Van Dyke, William D., Milwaukee.
 †Walker, Mortimer E., Racine.
 Walker, William A., Jr., Milwaukee.
 †Wehe, Waldemar C., Milwaukee.
 †Whelan, Charles E., Madison.
 Whitehead, John M., Janesville.
 †Widule, George C., Milwaukee.
 Wigman, J. H. M., Green Bay.
 †Wilcox, Roy Porter, Eau Claire.
 Wild, Robert, Milwaukee.
 †Williams, George L., Grand Rapids.
 †Williams, O. T., Milwaukee.
 Winkler, Frederick C., Milwaukee.
 †Wood, Edgar L., Milwaukee.
 †Wood, John J., Jr., Berlin.

‡Woodard, William H., Watertown.
 †Yockey, Chauncey W., Milwaukee.
 †Zimmers, William J., Milwaukee.

WYOMING.

†Arnold, Constantine P., Laramie.
 Brimmer, George E., Rawlins.
 Brown, Melville C., Laramie.
 Burdick, Charles W., Cheyenne.
 Burks, Timothy F., Cheyenne.
 Clark, Gibson, Cheyenne.
 Corthell, Nellis E., Laramie.
 †Grosbeck, Herman, Laramie.
 Kline, M. A., Cheyenne.
 Lacey, John W., Cheyenne.
 Lonabaugh, E. E., Sheridan.
 Mullen, William E., Cheyenne.
 †McMurray, Will, Laramie.
 Potter, Charles N., Cheyenne.
 †Taliaferro, Thos. Seddon, Jr., Rock
 Springs.
 Van Devanter, Willis (Wash., D. C.),
 Cheyenne.

† Elected by Executive Committee between meetings, 1911-12.

‡ Elected by Association at annual meeting, 1912.

RECAPITULATION

| State. | No. of Members. | State. | No. of Members. |
|----------------------------|--------------------|--------------------------|--------------------|
| Alabama | 48 | Montana | 26 |
| Arizona | 19 | Nebraska | 77 |
| Arkansas | 98 | Nevada | 3 |
| California | 70 | New Hampshire | 21 |
| China | 2 | New Jersey | 70 |
| Colorado | 117 | New Mexico | 16 |
| Connecticut | 89 | New York | 778 |
| Cuba | 1 | North Carolina | 65 |
| Delaware | 18 | North Dakota | 34 |
| District of Columbia | 144 | Ohio | 162 |
| England | 1 | Oklahoma | 44 |
| Florida | 81 | Oregon | 42 |
| France | 1 | Pennsylvania | 266 |
| Georgia | 61 | Philippine Islands | 4 |
| Hawaii Territory | 15 | Porto Rico | 10 |
| Idaho | 30 | Rhode Island | 60 |
| Illinois | 466 | South Carolina | 46 |
| Indiana | 100 | South Dakota | 37 |
| Iowa | 92 | Tennessee | 132 |
| Kansas | 73 | Texas | 56 |
| Kentucky | 80 | Utah | 24 |
| Louisiana | 131 | Vermont | 17 |
| Maine | 94 | Virginia | 78 |
| Maryland | 111 | Washington | 168 |
| Massachusetts | 477 | West Virginia | 83 |
| Mexico | 1 | Wisconsin | 222 |
| Michigan | 136 | Wyoming | 16 |
| Minnesota | 208 | | |
| Mississippi | 55 | | |
| Missouri | 208 | | |
| | | Total | 5584 |

APPENDIX

ADDRESS OF THE PRESIDENT

S. S. GREGORY
OF CHICAGO, ILLINOIS

Gentlemen of the American Bar Association:

It is quite obvious that we live in a time of much political and governmental activity. No doubt the importance and gravity of controversy is often exaggerated by those who participate in it. In the prospective of history, political and popular conflict loses somewhat of that sharp outline and aspect of almost revolutionary violence, which it wears while the battle is on. Still, making all due allowances, when we reflect that two amendments to our national constitution are now apparently soon to be adopted; when we consider the radical changes in their organic law, already secured in several states and contemplated in others; when we remember the marked innovations in political methods, accomplished by the direct primary extended this year for the first time to the selection of presidential candidates; it is not necessary to look beyond the extensive confines of our own land, nor to consider changes elsewhere, scarcely less significant, to establish the proposition that we live in an age of political revolution.

It has often been remarked by publicists that the jurisprudence of a nation is far behind its civilization in other respects; and such an observation is attributed to de Beccaria. This is sometimes true; but progress in any direction is seldom steady and consistent.

Now we seem to have reached a time when the very constitution and frame of our government is under critical examination. The necessity for those safeguards in administration which have been deemed essential to the security of rights to life, to liberty and to property, is called in question. The progressive tide, staid by constitutional barriers, threatens now to sweep them all away; to spread itself widely over field and valley, carrying with

it old forms, old institutions and old ideas, bringing in its train, according to contending views, either devastation or blessing, but concededly involving sweeping and radical change.

And so in legislation, state and federal, as well as in the domain of constitutional law, we find abundant illustration of the temper of the time.

There are now forty-eight states in the American union. In view of their enormous legislative output, though relatively small this year, owing to the fact that there have been legislative sessions only in twenty-two states, some of them exceedingly brief, it is not practicable, within the proper limits of an address of this character to review the legislation of each state.

I shall, therefore, content myself with some comment upon Congressional action and some discussion of the radical constitutional changes accomplished and in contemplation in the several states, with reference to a few state statutes, which seem to possess more than ordinary significance, leaving to the usual appendix more specific reference to state legislation which, however, can be but little more than a kind of legislative index to such special statutes as have seemed to be worthy of mention.

There is one topic to which I wish to refer, in which I believe this Association, as the great representative and national body of the profession, is deeply concerned.

At our last annual meeting, we were all gratified at the attendance of the President of the United States, and much interested in his address to us. No doubt you all remember that on this occasion he referred to the then pending treaties of arbitration, signed by the representatives of Great Britain and France, respectively, and the representatives of this country, which, in effect, provided that differences thereafter arising between the signatory powers, which it had not been possible to adjust by diplomacy, and which were justiciable in their nature, by reason of being susceptible of decision by the application of the principles of law or equity, should be submitted to the permanent court of arbitration established at the Hague, or to some other arbitral tribunal.

In these treaties there were also provisions establishing a joint commission of inquiry, to which, upon the request of either

party, should be referred for investigation, any controversy between the parties within the scope of the treaty before such controversy had been submitted to arbitration, and which should report upon the particular questions referred to it; and stipulating also that where the parties disagreed as to whether differences were subject to arbitration, that question should be submitted to this commission, and if all or all but one of the members of the commission reported that they were, they should be referred to arbitration accordingly.

The Senate declined to ratify these conventions.

I am not aware that this Association has ever expressed itself upon the expediency and propriety of these international agreements. I speak, therefore, only for myself in saying that, in my opinion, they were dictated and inspired by a high and sincere purpose to promote peace and good will between the nations of the earth, and to provide a scheme by which points of difference, arising between the contracting governments, might be wisely and justly decided in a manner entirely honorable to both parties and without the possibility of war and its attendant miseries.

For my part, I feel the most sincere regret that these treaties were not ratified by the Senate of the United States; and I think the members of this Association, as well as the people at large, are deeply indebted to the President for his sincere and earnest efforts thus to promote the great cause of international peace.

I think also that the course of the President in terminating, at the expiration of the current year, the treaty of commerce and navigation between this country and Russia, concluded December 18, 1832, was required by the exigency of the situation.

It is, of course, a serious matter to do anything which may interrupt the friendly relations existing between two great powers; but the persistent disregard of the rights of American citizens under this treaty and general international usage, and the entire want of such international comity as should mark the treatment by one power of the citizens of another within its borders, were such as to leave the President no alternative consistent with a proper regard for what is due to this nation in its relations with other powers.

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Notice thus given by the President was ratified by joint resolution of the Senate and House of Representatives, approved December 21, 1911.

Probably the most significant act of the present Congress was the adoption of a joint resolution proposing to the states an amendment to the constitution securing the election of members of the Senate by the vote respectively of the electors of the several states.

By the provisions of this resolution, it is proposed that in lieu of the first paragraph of Section 3, Article 1 of the Constitution relating to the Senate and the election of Senators by the legislatures of the several states; and in lieu of so much of paragraph 2 of that section as relates to the filling of vacancies, there should be substituted the following:

"The Senate of the United States shall be constituted of two Senators from each state, elected by the people thereof, for six years, and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

"When vacancies happen in the representation of any state in the Senate, the executive authority of said state shall issue writs of election to fill such vacancies; provided that the legislature of any state may empower the executive thereof to make temporary appointment until the people fill the vacancy by election as the legislature may direct."

There is added, what would seem to be a superfluous clause, that the amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes effective.

This involves a very radical change in our system of government. It is true that should this proposal be adopted, each state would still elect its Senators. Thus in the constitution of the Senate, what Hamilton referred to as the federal principle would be preserved to this extent; but on the other hand all distinction between the method of electing members of the House of Representatives and Senators would be abrogated, except that the former would still be elected by popular vote in such districts as the state might see fit to establish, while Senators would be voted for by the voters of the entire state.

It was supposed when the constitution was adopted that, by analogy to the English Constitution, it was desirable to have a separate legislative body, the members of which should have a longer tenure than those of the more popular House, and should be elected by a method which would render them less immediately responsible to the people than if elected by popular vote.

The method of the election of Senators was considerably discussed in the Constitutional Convention. James Wilson of Pennsylvania argued strongly and persistently even then for their election by the people. He was, however, opposed by Hamilton and indeed by nearly all the delegates.

General popular sentiment has been tending towards such an amendment for some years.

By state provision for advisory vote as to the election of Senators in Oregon, Nevada, Nebraska, Idaho, California, Colorado, Arizona, Kansas, Minnesota, Ohio, Montana, New Jersey, South Dakota, Iowa and a number of other states, a method somewhat similar to that proposed by the pending amendment has been adopted in each of those states, although, of course, it lacks the sanction of law to some extent. In most, if not all, of the states of the south it has for some years been customary to vote for candidates for Senator at a state primary.

It may be doubted, however, whether any one of these states, or perhaps whether all of them together, by their adherence to this scheme, have contributed so much to the proposal of this amendment and the general popular favor with which it has been received, as did the legislature of the State of Illinois, in disregarding a somewhat similar advisory expression by the voters of the majority party in that state; and, under circumstances too painful and too recent to warrant more particular statement, electing to the Senate of the United States a man whose election to that body has just been, by an overwhelming majority of Senators, declared to be void.

It is precisely this kind of gross abuse of power and dereliction in duty by representatives to their constituents, which has contributed so largely to the failure of representative government and destroyed the confidence of the American people in the entire representative system.

There would seem to be but little doubt, judging from the present temper of our people that this amendment will pass, although it will undoubtedly meet with considerable resistance in certain quarters. The legislature of Georgia has just declined to act upon it on the ground that it was not proposed by two-thirds of the full membership of each house of Congress.

Congress is still in session as I write and as legislative activity is usually much stimulated in the closing hours of a session, it is difficult to speak with confidence as to the outcome in respect of pending legislation.

Thus far, however, this being a presidential year, and one of the great parties controlling the House of Representatives and the other the Senate, there has been comparatively little legislation of general interest and importance. Possibly politics and supposed political advantage play too large a part in the deliberations of our legislators.

There was one act passed of considerable importance, not merely in its direct effect but in its general influence.

This was the act approved June 19, 1912, limiting the hours of daily service of laborers and mechanics employed upon work done for the United States or for any territory or for the District of Columbia, to eight hours. It is provided, however, that the act shall not apply to contracts for transportation, or for the transmission of intelligence, or for the purchase of supplies by the government, or for such materials as may usually be bought in open market, except armor and armor plate, or to the construction or repair of levees, necessary for protection against floods, etc. It is also provided that the President, by executive order, may waive the provisions and stipulations in this act as to any specific contract during time of war or when war is imminent and, until January 1, 1915, as to any contracts entered into in connection with the construction of the Isthmian Canal. The act goes into effect January 1, 1913.

This endorsement by the government of the freest, most intelligent and most powerful nation in the world of the eight hour day, however limited its scope, is justly entitled to great weight.

It would seem to be a reasonable proposition that with increased efficiency of labor, due to improved machinery and methods and to other causes, which can hardly be indicated in any one compendious phrase, there should be a constant tendency, under economic laws, towards higher wages and shorter hours of labor.

That there has been some progress in the law in this regard is indicated by the fact that about one hundred years ago it was, by the common law, a criminal conspiracy for workmen to combine to reduce the hours of labor in one day to less than thirteen. 3 Chitty's Criminal Law, 1163.

In this connection, it may be noted that the legislature of Connecticut adopted a somewhat similar statute applying to those in certain trades in mechanical departments of state institutions, securing to them an eight hour day, September 20, 1911; and the pending amendments to the Ohio constitution contain a similar provision.

By act approved May 11, 1912, some changes were made in the Pension Laws providing, among other things, for a service pension for everyone who, during the Civil War, served ninety days or more in the forces of the United States, was honorably discharged and has reached the age of sixty-two years or over.

Section 1004 of the Revised Statutes was amended so as to provide that writs of error returnable to the Supreme Court or a Circuit Court of Appeals may be issued by the clerks of the District Courts as well as by the Clerk of the Supreme Court or of the Circuit Court of Appeals.

An act was also passed to amend Section 118 of the act of March 13, 1911, relating to the judiciary, so as to provide that nothing therein should be construed to prevent a Circuit Judge holding court in the District Court or serving in the Commerce Court, or otherwise, as provided for in other sections of that act. The same act was also amended as to Section 67, by a provision that no person at present holding a position or employment in the Circuit Court should be debarred from similar appointment or employment in the District Court succeeding to such Circuit Court jurisdiction.

Considerable appropriations were made for the relief of sufferers from the recent floods in the great rivers of the country and for protecting the levees on the Mississippi River.

April 9, 1912, an act was passed providing for the establishment in the Department of Commerce and Labor of a Bureau to be known as the Children's Bureau.

It is made the duty of this bureau to investigate and report to the department upon all matters pertaining to the welfare of children and child life among all classes and especially to investigate the question of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children and employment of, and legislation affecting, children in the several states and territories.

This seems to be an important and highly commendable statute for gathering upon a broad scale data and statistics which will be of great value as a basis for legislation hereafter, either state or federal.

What seems to be a rather trivial subject engaged the attention of our national legislators; and in July the House passed a Senate Bill prohibiting the transportation, between the different states or territories or from foreign countries, of moving picture films representing prize fights. It has not, however, as this address is written, been signed by the President.

This is so purely a matter of local police regulation in its essence, that it seems as if any evil thus sought to be corrected might well be left to be dealt with by the local authorities, where it should be attempted to exhibit such pictures. This is, however, but one of countless illustrations of the manner in which the national government, quite inevitably in many instances, displaces the authority of the state.

There has been no Congressional legislation by way of amendment to the Sherman Anti-trust act of July 1890. There are many who contend with great plausibility that the act ought to be repealed *in toto*. Certainly this is an age of centralization. This country, through improved means of transportation and communication, is now one country in a sense that was not only

impossible when our government was formed but then quite inconceivable. It is idle in legislation to attempt to resist those unifying influences which operate in every field of human effort. Dr. VanHise, the very able and scholarly President of the great University of Wisconsin, in his recent work upon this subject, has well said:

“Concentration and co-operation in industry in order to secure efficiency is a world-wide movement.

“The United States cannot resist it. If we isolate ourselves and insist upon the subdivision of industry below the highest economic efficiency and do not allow co-operation, we shall be defeated in the world's markets. We cannot adopt an economic system less efficient than our great competitors, Germany, England, France and Austria. Either we must modify our present obsolete laws regarding concentration and co-operation, so as to conform with the world movement, or else fall behind in the race for the world's markets. Concentration and co-operation are conditions imperatively essential for industrial advance; but if we allow concentration and co-operation, there must be control in order to protect the people. An adequate control is only possible through the administrative commission. Hence concentration, co-operation and control are the key words for a scientific solution of the mighty industrial problem which now confronts this nation.”

These views seem to find strong support in one of the minority reports from the so-called Stanley Committee of the House, lately investigating the United States Steel Corporation. They seem to be sound and rational.

The federal act in question has, in my judgment, accomplished little or nothing useful. Prosecutions and proceedings under it, where successful, have resulted in barren victories with no practical results; and in the nature of things, nothing of permanent advantage ever can be accomplished in a governmental contest against economic law.

I do not intend by this to suggest that there may not be need of some legislation in this field. If there is, it must be of a far different character. It must be by way of regulation and control of combination rather than by prohibition. I believe the best thought and intelligence of the country is well persuaded of the

futility of this act and that it ought to be repealed. In my judgment, such a program would meet with far greater popular support than most of our political leaders seem to suppose.

The Congress has also passed an excise bill levying an annual tax upon all persons, firms and co-partnerships equal to one per cent of net income in excess of \$5000. Several amendments were adopted to this bill in the Senate, so that it will probably go to a conference committee composed of members of each House. Whether it will be signed by the President or not it is impossible now to say.

Among the measures now pending in the Senate is House Bill 22,913, relating to the Department of Labor, and House Bill 22,591, relating to procedure in contempt cases.

The former bill provides for a Department of Labor and changes the present Department of Commerce and Labor to a Department of Commerce. It creates an additional cabinet member, the Secretary of Labor, and transfers the Commissioner-General of Immigration, the Bureau of Immigration and that whole service and the Bureau of Labor and Commissioner of Labor to the new department thus created. It authorizes the collection and publication of statistics relative to the conditions of labor; provides that the Secretary may act as mediator and appoint commissioners of conciliation in labor disturbances and contains other provisions not necessary now to be referred to.

The bill to regulate procedure in contempt cases is proposed as an amendment to the judicial code. Its essential feature is to provide for trial by jury upon information for contempt, if the person thus charged shall demand a jury, unless the contempt was committed in the presence of the court or so near thereto as to obstruct the administration of justice, or is charged to be in disobedience of any lawful writ, process or order entered in any suit brought or prosecuted on behalf of the United States, provided the act charged is of such a character as to constitute also a criminal offence under any statute of the United States or at common law.

There was considerable difference in the Judiciary Committee but the bill passed the House and is now pending before the Senate.

The minority of the House Committee argue that it is unconstitutional. This is clearly untenable. The cases relied upon by the minority are substantially cases from the various state courts where the right of the legislature to limit the power to punish for contempt has been denied, because the courts whose powers were thus sought to be restricted were constitutional courts possessing a constitutional jurisdiction, which could not be impaired by the legislature.

The federal constitution provides that the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish. By the act of 1831, Congress limited the power of these inferior courts to punish for contempt and this act has stood without challenge from that time to this.

The minority of the committee observe that courts of equity grew up from the reason of the fact that they apply principles of justice and equity to the affairs of men, which may be better administered by a chancellor than by a jury and that this bill proposes to strip these courts of their true character as courts of equity and tie the hands of the chancellor in the administration of justice by the introduction of the rules of practice which belong only to courts of law.

It is really amusing to one having any familiarity with the essential jurisdiction of equity to consider such a suggestion, as also the notion that the right to trial by jury depends merely on rules of practice.

It must be remembered that this bill, whatever the form of the proceeding, deals only with what are essentially criminal offences. In this field equity has no jurisdiction. Equity concerns itself with controversies relating to property. Little by little, under the modern dispensation, equity has encroached upon this field and taken jurisdiction, by bill for injunction in so-called strike cases, at the instance of railway companies and other large employers of labor and has exercised a jurisdiction essentially criminal.

The Constitution of the United States secures the right to trial by jury in all criminal prosecutions, both by the provisions

of the sixth amendment and by paragraph 3 of Section 2, Article 3. To say that the commission of an offence against the laws of the United States or at common law may be enjoined, and then the person charged with the commission of that offence may be tried upon information for contempt without a jury, is a clear evasion of these salutary constitutional guarantees. When such evasions are countenanced in the effort to reach those not actually guilty, but supposed to be constructively involved and at the instance of the strong and powerful and against the humbler orders of society, it is not remarkable that there is a loss of popular confidence in, and sympathy with, all the departments of government.

We thus keep the constitutional word of promise to the ear but break it to the hope. A great judge, Joseph P. Bradley, speaking for the Supreme Court of the United States in a historic case said, in declaring that constitutional provisions for the security of persons and property, should be liberally construed.

"A close and literal construction deprives them of half their efficacy and leads to depreciation of the right, as if it consisted more in sound than in substance. It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon. Their motto should be, *obsta principis*."

The real question involved is whether trial by jury shall be retained in all essentially criminal prosecutions in the federal courts.

Where the law prohibits an act, the effect of enjoining against its commission is merely to change the procedure by which the guilt of the person charged with doing the act thus prohibited shall be ascertained and his punishment fixed. By enjoining against the commission of crime and then proceeding on a charge of contempt against those accused of committing it, the administration of the criminal law is transferred to equity and the right to trial by jury and all other guarantees of personal liberty, secured by the constitution, are *pro hac vice* destroyed.

I can but regard the decisions, even by courts of the highest

authority, which sustain such a palpable evasion of the constitution as unsound and the effort in Congress to correct this judicial departure as timely.

That effort has met with the most determined opposition by large interests, which mistakenly, as I think, suppose this proposed legislation to be injurious to them.

It seems strange that in this day and generation it should be necessary to enter into any defense of the time honored institution of trial by jury.

I cannot do better than to refer to the great address delivered before this Association on the 18th of August, 1898, by one of the acknowledged leaders of the American Bar, Mr. Joseph H. Choate of New York.

While his theme was trial by jury, incidentally he touched upon most of the questions relating to reform of the administration of the law, including particularly reform of procedure, with which this Association is now concerned; and he illuminated every topic to which he referred with the experience of a long and distinguished professional career and the matured wisdom and insight, which can only be acquired by such an experience. Referring to trial by jury he said (21 Am. Bar Reports, 290-291).

"I do not appeal to mere sentiment or popular prejudice in defence of this which I believe to be the best method yet devised for the determination of disputed questions of fact in the administration of justice. There is no need of such appeals—and if I were weak enough to resort to them, they would be wasted upon an assemblage of lawyers like this.

"The truth is, however, that the jury system is so fixed as an essential part of our political institutions; it has proved itself to be such an invaluable security for the enjoyment of life, liberty and property for so many centuries; it is so justly appreciated in the administration of justice; it is such an indispensable factor in educating them in their personal and civil rights; it affords such a school and training in the law to the profession itself; and is so embedded in our constitutions which, as I have said, declare that it shall remain forever inviolate, requiring a convention or an amendment to alter it—that there can be no substantial ground for fear that any of us will live to see the people consent to give it up.

ciated as the best and perhaps the only known means of admitting the people to a share, and maintaining their wholesome interest,

"For the trial of persons charged with crimes, I do not believe that any material alteration of its character will ever be thought of."

He is not singular in this opinion. His testimony might be corroborated by that of almost every great lawyer of extended experience and every judge who has sat long at *nisi prius* and possessed the confidence and respect of the Bar practicing before him.

One of the great lawyers of this country, in his day and generation, was Jeremiah S. Black of Pennsylvania. In a historic case, in the Supreme Court of the United States, where he always had respectful audience, he used this language:

"We do not assert that the jury trial is an infallible mode of ascertaining truth. Like everything human, it has its imperfections. We only say that it is the best protection for innocence and the surest mode of punishing guilt that has yet been discovered. It has borne the test of a longer experience, and borne it better than any other legal institution that ever existed among men. England owes more of her freedom, her grandeur and her prosperity to that, than to all other causes put together. It has had the approbation not only of those who lived under it, but of great thinkers who looked at it calmly from a distance, and judged it impartially; Montesquieu and DeTocqueville speak of it with an admiration as rapturous as Coke and Blackstone." 4 Wall, page 65.

I am not sure of the historical accuracy of another extract from his argument in the Milligan Case; but it is as follows:

"Alfred, the greatest of revolutionary heroes and the wisest monarch that ever sat on a throne, made the first use of his power, after the Saxons restored it, to re-establish their ancient laws. He had promised them that he would, and he was true to them because they had been true to him. But it was not easily done; the courts were opposed to it, for it limited their power—a kind of power that everybody covets—the power to punish without regard to law. He was obliged to hang forty-four judges in one year for refusing to give his subjects a trial by jury."

This would seem to be quite a rigorous application of the judicial recall.

Whether this apocryphal statement is altogether veracious or not, this at least is true; there is no place in our governmental system for the exercise of arbitrary power.

This is the power claimed and exercised by a single judge in punishing for contempt of court. It exists only *ex necessitate* and ought not to be extended. It ought not to be allowed in essentially criminal cases, for it is certain to be abused. Chesterfield has well said :

There have been misers of money but none of power.

The trial by jury is an integral and essential part of free government. Those who decry and distrust it do not believe in popular government. They distrust the people and would restrict rather than extend their participation in the administration of government.

That the proposition embodied in the proposed legislation is not of the dangerous character that its opponents claim is well illustrated by the fact that it merely conforms the law in the federal jurisdiction, in part at least, to the law of several of the states of this union; and that so lately as in 1911, the State of Massachusetts adopted a statute providing for trial by jury in proceedings for violation of an injunction if the violation charged is an act which also would be a crime. (36 Am. Bar Rep., 274.) A similar provision as to contempts in labor injunction cases is found in the amendments proposed to the Ohio constitution.

I will not stop to more than refer in this connection to the dangerous heresy intimated by a judge in Washington in the first opinion in the Bucks Stove Company case, that equity may enjoin a criminal libel. It is to be hoped that this will not be solemnly adjudicated by any court of authority in this country. The abuses possible under such an idea are quite sufficient to destroy the right of free publication and ultimately free speech.

I deem it proper, however, to note in this connection an English statute of August 18, 1911, referred to in the annual bulletin of our excellent Comparative Law Bureau, issued July 1, 1912, and published under the direction of that accomplished and scholarly jurist, Governor Baldwin of Connecticut, which forbids making or publishing any false statements of fact in relation to the personal character or conduct of any candidate at, as I understand it, a municipal election, and that such publication

may be restrained by interim or perpetual injunction by the high court of justice.

Such a statute rigidly enforced by a judge, chosen by a political machine, would be an inestimable boon to that swarm of petty political rascals who infest both political camps in our great centers and are continually seeking office for the purpose of using positions thus obtained in one way and another to levy blackmail on those in any way dependent upon the public conduct of these prætorians of politics.

While it is hardly legislation, yet it may be proper to note that a sub-committee of the Judiciary Committee of the House of Representatives was directed by resolution of the House, to investigate charges made against Cornelius H. Hanford, United States District Judge for the Western District of Washington, residing at Seattle in that state. On the 22d of July this year, after this investigation had been proceeding for some weeks, Judge Hanford resigned, and the House has dropped these proceedings.

In the same month the House of Representatives presented to the Senate articles of impeachment against Robert W. Archbald of Scranton, Pennsylvania, Circuit Judge of the United States assigned to the Commerce Court. I am sure that the members of this Association feel a sincere regret for the apparent necessity that seemed to suggest these proceedings and that we all hope, as to the case against Judge Archbald, that a full and complete investigation by the Senate may result in his complete exoneration from any suspicion of judicial misconduct.

The trial by the Senate has been set for December 3d next.

As to Judge Hanford, having read such of the evidence as has been printed in the newspapers, I venture to express the opinion, though possibly I ought not to, that the matter sought to be proved seems to have been for the most part trivial and falling far short of such high crimes and misdemeanors as would warrant impeachment of a federal judge.

We ought not, however, to condone nor gloss over the shortcomings of the Bench. There is altogether too much of an effort

on the part of some lawyers to do this and to stand well with judges and to some extent to make this their stock in trade.

A judge ought to be held to high standards of public and official conduct and the Bar ought, and I believe are, generally disposed, to insist upon such standards.

If we feel a just pride in the splendid record of the Bench and Bar of our country, this should lead us not to deny the faults of either, but to recognize and seek to correct them; and, so far as we can exercise our influence, to make judges and lawyers what they ought to be; and then not be unduly disturbed at the empty criticism of both orders on which the public is fed by the shallow and frivolous. I have sufficient confidence in the wisdom and patriotism of our people to believe that they cannot thus be misled unless there is some basis for such attacks.

An effort was made to abolish the new Court of Commerce and indeed the additional Circuit Judgeships which were filled in order to constitute this court. I believe at the present time this matter is in conference between the two Houses of Congress. It is difficult to see how, consistently with constitutional principles, the offices thus filled by appointment for life can be abolished during the tenure of the incumbents. There is no doubt that the Commerce Court may be. If the suggestion of the President, made to us last year, that this court take patent appeals, had been regarded and legislation accordingly adopted, probably there would have been no danger that the court would be abolished.

The effort to legislate the judges out of office has been abandoned.

The income tax amendment has been ratified by so many states that there seems to be no doubt of its adoption. This being so the necessity for adopting the Excise Bill already referred to, obviously of doubtful constitutionality, is not apparent unless suggested by some political exigency not avowed by those who support it.

Before turning to other topics, I wish to refer to a subject to which this Association and its committees have given much attention—the Reform of Procedure.

I think the sentiment of the profession is rather crystallizing

in favor of the idea that pleading and practice in civil cases should be regulated in the main by rules of court promulgated by the court of last resort in the jurisdiction. This idea has been ably advocated by Mr. Roscoe Pound and recommended by our special committee to suggest remedies in this regard, of which Mr. Everett P. Wheeler has for some years, with signal ability and great fidelity, acted as Chairman.

In this way a larger measure of responsibility would be placed upon the court of last resort. The members of such a tribunal would not then be in a position to say as often as they now can, that they declare but do not make the law.

As to these matters they would make it, and where abuse existed in this field, they would be responsible for its correction.

This also would secure that flexibility and adaptability which is especially desirable in rules of practice.

Whatever system may be adopted, this also is undoubtedly true; the most vital thing to the intelligent and efficient administration of justice in our courts is the spirit in which those concerned in it participate in its administration. In this respect, a great responsibility rests both upon Bench and Bar and we ought to be mindful of it not only in attendance here but in the strife and excitement of the court room as well.

I do not intend to discuss the proposed judicial recall already in force in some states. Our committee will deal fully with it. As to judges elected for short terms, it is preposterous. At present I am opposed to it in any form or under any conditions.

We ought not to rashly assail the very foundations of our system of judicial administration which has been so slowly and elaborately developed and has on the whole, as we know whatever others may suppose, worked so well.

However, an interesting and important suggestion made by a brilliant member of the Chicago Bar, Mr. A. J. Eddy, in a paper recently read before the Bar Association of that city, that our state judges be elected or appointed for life subject to the recall, will be well worthy of serious consideration if this remedy, as applied to local municipal officers and others not judicial, meets, after sufficient experience, with general popular approval.

It is conceivable that such a plan might secure to judges now elective, greater independence and security of tenure than they now enjoy.

There is another subject to which I wish to refer in passing. The efforts of Mr. Choate and other leaders of our Bar to raise a suitable fund for the widow and daughters of the late Mr. Justice Harlan forcibly direct our attention to the scandalous parsimony of the nation in its treatment of the judges. Their meagre salaries are entirely inadequate.

But certainly their retiring pensions should be continued to their widows and daughters; or else in every case Congress should make special provision. The *National Corporation Reporter* of Chicago under date of August 1, has an excellent and timely article on this subject.

No sum of money could adequately recompense the inestimable public service of John Marshall Harlan.

In the high domain of federal constitutional law he stands second only to the great chief justice, whose profound conceptions of national unity and national authority he vitalized and applied to present problems and present needs.

If we consider the significant legislation of the several states, the first that seems to me to merit attention is the rapid progress of the movement to secure presidential primaries, at which the electors of the states express their preference among the various candidates in their party for the presidency. I believe the first statute providing for such a primary was adopted by Oregon in November, 1910. Now in addition to that state, New Jersey, Wisconsin, Nebraska, California, North Dakota Massachusetts, Maryland, Michigan, Illinois and Arizona have statutes more or less similar.

The statutes for such primaries in Arizona, California, Massachusetts, Michigan and Illinois have been adopted since the last meeting of this Association.

I refer particularly to these statutes because they seem to be part of the general national movement towards popularizing the selection of the President and really more completely frustrating the constitutional method of choosing him, if possible, than has been for many years accomplished by common consent.

To refer to constitutional changes pending or adopted, it may first be noted that Arizona was admitted as a state, February 14 of the present year, after the President had vetoed a joint resolution of the two Houses of Congress, admitting the territories of New Mexico and Arizona into the union. That resolution, among other things, provided that Arizona should be so admitted upon condition of submitting to the electors of that state, at the time of the election of state officers, a proposed amendment to its constitution, by which judicial officers should be excepted from the section of its constitution permitting the recall of elective officers. This provision as well as that for the judicial recall in the proposed constitution having been eliminated and Arizona admitted as a state, its first legislature meeting the 18th of March last, one of its first acts was to submit to the electors of the state an amendment to its constitution to provide for the recall of judges, being the provision in the proposed constitution, the presence of which in that instrument induced the President to veto the joint resolution of Congress as stated.

Not only has an effort thus been made to incorporate this feature into the organic law of that state, but an attempt to extend the recall principle to the federal judiciary has been made the subject of a statute adopted at the same session at which the constitutional amendment was proposed.

It provides that a petition of 15 per cent of the voters shall require the submission to popular vote of the question of requesting the resignation of a District Judge of the United States for the District of Arizona, the petition to set forth the reasons in not more than 200 words; that on the same ballot, but separate from the question, there shall be placed the names of as many candidates for successor to such judge as shall have been proposed by five per cent petitions; that if the recall of the sitting judge is favored by a majority vote, the result shall be officially transmitted to the President and the Senate of the United States, along with the name of the candidate receiving a majority of the votes as that of the person recommended in case the office becomes vacant by resignation or otherwise.

The same law provides that in case of vacancy on the United

States District Court Bench for Arizona, otherwise than in consequence of the advisory recall, a direct primary election may be held for the purpose of recommending a successor by popular vote; that for this primary, nominations may be made by five per cent petitions; that candidates may file statements prior to the primary to the effect that if appointed they (1) will resign whenever so requested by the people under the advisory recall, or (2) will not resign if so requested; such statement to be officially published and to appear upon the ballots under the names of the candidates respectively; and that the voting shall be by a preferential system insuring majority nominations.

A somewhat similar statute was also passed at the same session providing for an advisory recall of United States Senators and Congressmen from that state.

Chap. 56.

My distinguished predecessor, Mr. Farrar, in his address last year, with that classical inspiration which so often illuminates his literary efforts, used this language as to statutory judicial recall:

"Of course from time to time there arise examples of the Homeric Thersites. . . . Without exception, however, their winged words have had but a short flight. The proposed measure would furnish a perpetual audience to men of this kind, and worst of all an audience with power to act."

At least the latter element is wanting in this legislation; and it is, to that extent, less objectionable.

The State of California, by popular vote October 10, 1911, adopted very radical amendments to its constitution. That which I will notice first is Section 1 of Article 2, upon the right of suffrage. This amendment abrogates the qualification of sex theretofore existing and admits women to the full right of suffrage on an equal footing with men.

The states in which the right to vote is now accorded to women, in addition to California, are Washington, Idaho, Wyoming, Colorado and Utah. Each of these states, except Washington, has a population of less than one million. Washington has a population of a little under 1,200,000 and California has a population

of about 2,400,000, is the twelfth state in population and, as appears by these figures has more than twice the population of Washington. Its action in this regard is, therefore, of some significance.

On the 3d of September the people of the State of Ohio vote upon the adoption of an amendment to their constitution, which also extends the suffrage to women; and at the regular fall elections in Wisconsin, Kansas, Oregon and Michigan the electors of these states, respectively, vote on a similar proposition.

It certainly seems as if women were entitled to self-government as well as men. It is the Jeffersonian idea and I believe it to be the true one, that all men are entitled not merely to wise government, not merely to honest government, not only to good government, but to self-government.

It is very difficult to see how, consistently with this principle, which lies at the foundation of American institutions, the political rights accorded to men can be denied to women. I am satisfied that if the ladies make up their minds with any considerable degree of unanimity that they want the ballot, they will get it; and at the present time there are strong indications that they have decided that they are entitled to and should have this vital and important political right.

Other amendments provide for the initiative by which constitutional amendments as well as laws may be proposed, and the referendum for charters to counties and cities thus endeavoring to secure local self-government; for the recall of every elective public officer in the state, including judges; and also prohibit raising rates for transportation, except by authority of the railroad commission, and that the decision of the commission shall not be subject to review by any court, except upon the question whether it will result in the confiscation of property; and also prohibit discrimination in transportation charges or facilities; and provide for the creation of a railroad commission of five members with extensive powers. These amendments have been supplemented by a considerable volume of legislation some of which is noticed in the appendix.

The recent constitutional convention in Ohio adopted a series

of amendments, some of which are of quite radical character. Among other things proposed are the following:

That a verdict in civil cases by three fourths of the jury may be authorized by law.

That capital punishment shall be abolished.

That depositions for or against the accused may be taken and read in criminal cases, and his failure to testify commented upon.

That the amount of damages recoverable for death by wrongful act or negligence shall not be limited by law.

That the people shall have the power to initiate legislation and to compel its reference to them for approval.

That this power shall not be used to impair uniformity in taxation or to authorize the levy of the single tax on land.

That laws may be passed fixing the hours of labor, establishing a minimum wage and providing for the comfort, health, safety and general welfare of all employees.

That laws may be passed creating a state fund by compulsory contribution from employers to be administered by the state for the purpose of providing for death, injury or occupational diseases occasioned in the course of employment and taking away rights of action or defense from employees and employers.

That except in cases of emergency a day's work shall be limited to eight hours for workmen on public work, carried on or aided by the state.

That laws be passed for prompt removal from office of all officers, including judges, upon complaint and hearing, for misconduct involving moral turpitude or other cause provided by law.

That laws may be passed for the regulation of the use of expert witnesses in criminal trials and proceedings. This was probably suggested by a recent decision in Michigan declaring such act of the legislature of that state unconstitutional. *People vs. Dickerson*, 164 Mich. 150.

That a system for registering, transferring and insuring land titles may be established.

That no law be held unconstitutional by the Supreme Court without the concurrence of at least all but one of the judges, except where the judgment of a Court of Appeals is affirmed.

That Courts of Appeals similar to those in the federal system be established, which, however, can only reverse the judgment of a court of first instance on the facts where such Court of Appeals is unanimous.

That laws may be passed among other things regulating proceedings in contempt and limiting the power to punish therefor.

In the same amendment it is provided that no injunction shall issue in any controversy involving the employment of labor except to preserve physical property from injury or destruction; and all persons charged in contempt proceedings with the violation of such an injunction, shall, upon demand, be granted a trial by jury as in criminal cases.

That every citizen of the United States of the age of twenty-one with the prescribed residence, shall have the qualifications of an elector with an alternative proposition limiting the right to vote to male citizens.

That all nominations for elective city, county and municipal officers shall be made at direct primary elections, or by petition as provided by law; and that provision by law shall be made for preferential vote as to United States Senators and that delegates to national conventions shall be chosen by direct vote, each candidate stating his first and second choice for the presidency, which preference shall be printed upon the primary ballot.

That bonds may be issued not exceeding ten million dollars per year and not in excess of fifty millions of dollars in all for the purpose of constructing and repairing a system of intercounty wagon roads.

That uniformity in taxation shall be preserved, but that there may be a graduated succession tax and a graduated income tax, fifty per cent of which must be returned to the city, village or township in which it originated.

That appointments and promotions in the civil service shall be according to merit and upon competitive examination.

That laws may be passed regulating the use of property near public ways and grounds for bill boards and posters.

That in 1932 and each twentieth year thereafter the question whether there shall be a convention to revise, alter or amend the constitution, shall be submitted to popular vote.

That municipalities may own and operate public utilities and may sell the surplus product of utilities thus owned or operated, with certain exceptions.

The amendments thus submitted, if adopted, take effect on the first of January, 1913, with a few exceptions as specified in the excepted amendments. They are to be voted on September 3.

There have been many statutes passed by the legislatures of the several states since the last meeting of the Association of considerable general interest and which might well serve as a basis for some extended comment, but the limitations of the occasion forbid this and I shall therefore refer only to a few of them.

The State of Massachusetts, considered by many one of the best governed states in the American union, on the 4th of June last passed an act to establish a minimum wage commission and to provide for the determination of wages for women and minors, which takes effect July 1, 1913.

The machinery contemplated by this act is quite elaborate and I will not attempt to state it further than to say that the only penalty for disregarding the minimum wage, ascertained in the manner provided for by the statute, seems to be publishing the names of employers who are thus derelict.

The legislature of Kentucky by act approved March 19, 1912, passed a statute prohibiting what is commonly known as sweating persons in custody charged with crime, by questioning them concerning their connection therewith or knowledge thereof while so in custody, by plying them with questions or threats or other wrongful means and extorting information to be used against them. This subject was discussed at our last meeting.

The legislature of Louisiana by Act No. 133, approved July 9, 1912, proposed an amendment to the constitution of that state providing for the recall of all officers of the state, except judicial officers.

By Act No. 157, the legislature of the state also adopted quite a complete though brief code of pleading in civil cases, which seems to have most of the essentials of a code of civil procedure, so far as pleading in an action at law is concerned. This act takes effect January 1, 1913.

The act recommended by this Association referring to wills executed without a state in the mode prescribed by the law of the place where executed, or of the testator's domicile, was also passed at the same session of the legislature and approved July 11, 1912; so that a will thus executed out of Louisiana is effectual, provided it is in writing and subscribed by the testator.

Minnesota and Louisiana have each adopted a stringent corrupt practices act.

The general object of such statutes is most salutary and their adoption seems imperative unless the purpose of direct primary legislation is to be largely frustrated.

New Jersey has adopted a new practice act, quite similar in some respects to the English Act of 1875.

This review of changes, accomplished and pending, both in legislative and organic law, brief and most inadequate though it be, may yet well suggest the most serious reflection.

What does it all mean?

That it contemplates and fairly portends, not only radical change but a substantial revolution in government is most true; a form of government too that has for over a hundred years excited the wonder and admiration of the world, and has been regarded, by those who dwelt beneath its ample canopy, with reverence and veneration, as the last and final expression of liberty and popular right, guaranteed by organic law and secured by free institutions.

If I may, with some diffidence, venture to interpret this wonderful awakening, I should say it was inspired by the profound conviction that what the framers of our institutions, state and national, sought, as the great end and object of government, the rule of the people, has not been achieved; and its aim and high purpose are, not to destroy those institutions, but so to recreate and reconstitute them as to restore to the hands of the whole people what seems, in a measure, to have been lost, the actual control of government and its agencies.

To this end it is proposed to extend to women the right to vote, to establish presidential and other direct primaries, to popularize the election of Senators of the United States, to protect

the right to trial by jury in matters essentially criminal, to reserve to the people in each state the right to initiate and to approve legislation and to recall their public servants when their dereliction in duty demonstrates that they are no longer worthy of confidence.

There is, too, a new sense of social justice. The declared objects of our people in the adoption of the federal constitution were not only to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence and secure the blessings of liberty, but also to promote the general welfare.

Modern political thought emphasizes this idea; and no longer does the individual ask "Am I my brother's keeper?" He realizes that he is, in a high, just and ethical sense and with corresponding duties and moral responsibilities. And so we feel in the words of one of our own poets:

"Whatever wrong is done
To the humblest and the weakest
'Neath the all beholding sun,
That wrong is also done to us;
And they are slaves most base
Whose love of right is for themselves
And not for all their race."

So far as this can be accomplished by public municipal law, we must establish, on a sound and enduring basis, social, economic and industrial justice. For in a true and real sense, now better understood than in the ages from which we draw many of our maxims and precedents, the safety of the people is the supreme law.

We may perhaps get a broader view of present conditions if we go back a hundred and thirty-six years to the quaint old hall in Philadelphia where on the 4th of July, 1776, the foundation principles of free government were proclaimed to a listening world.

True, like us our fathers were the heirs of all the ages. They did not originate all that they declared. They but applied old truths and recognized principles to a new situation.

The world then was a different world from ours. Men traveled

substantially as they did when Rome was a republic and when the Pharaohs ruled. Their implements of agriculture and husbandry had not changed materially in 2000 years. Machinery was crude and of exceedingly limited application. The steam engine had not been developed. Medicine and surgery, except for the discovery of the circulation of the blood and the prophylactic value of vaccination, had made little or no material progress since the time of Galen and Hippocrates. The possibilities of the railroad, the telegraph, the telephone and the countless applications of steam and electrical energy still slumbered in the minds of men.

Private corporations practically did not exist in this country, and there was little accumulated wealth in the hands of individuals.

Is it, therefore, any imputation on the profound wisdom and patriotic foresight of our revolutionary fathers to say that, now, after this lapse of time and after the world in that period has changed more, in its material aspects than in all prior recorded time, some change in government is necessary in order to secure what they sought to provide for us?

They then plainly declared that "all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

Here is the great charter of liberty and popular government; and in these express words is the right of the people to alter or abolish their government when it fails of its purpose irrevocably declared.

It is because of this principle that our revolutions are not and never will become, so long as it is observed, military or warlike in character.

But what were these staid elderly gentlemen in picturesque silk stockings, small clothes and venerable wigs doing at this time and what was their true character?

We look back through the long perspective of history, and see them in its mellow light, their aspect softened by time and hallowed by our reverence and gratitude for their incomparable service. They command our respect and veneration, as though they were a body of sedate, dignified, conservative men engaged in an enterprise of the most undoubted propriety and the highest respectability.

This was far from the case.

They were radicals.

Worse than that; they were rebels.

When in signing the immortal declaration they pledged their lives, their fortunes and their sacred honor, this was no mere empty form of words.

It was literal and exact truth.

But like all great leaders they looked forward and not backward. They had the genius of hope and faith and courage.

We need it now.

When in an awful national crisis the great struggle came which nearly rent our beloved land in twain, leaving wounds deep and painful that it has taken nearly fifty years to heal—Heaven grant they may never be re-opened—can it be said that the simple yet majestic character that stands out, unique, singular and inspired through all those fateful years, had less of faith in the people than did our revolutionary fathers?

Confronted at his first election with the frightful prospect of civil war, he felt that he could make no higher appeal to contending factions than to urge them to trust the people and to abide their decision.

In his first inaugural he said:

“Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world? In our present differences is either party without faith of being in the right? If the Almighty Ruler of the nations, with his eternal truth and justice, be on your side of the north,

or on yours of the south, that truth and that justice will surely prevail by the judgment of this great tribunal, the American people."

Almost everything that he did of moment in the course of this titanic struggle (for it was fought between men of a race which breeds heroes), was challenged as unconstitutional by the conservatives of that time. But he looked to the future and did not dwell in the ghostly regions of the past; and what he did was inspired by the sublime purpose thus to do his part that government by the people should not perish from the earth.

And what a figure he is in history.

"Like some tall cliff that lifts its awful form
Swells from the vale, and midway leaves the storm
Though round its breast the rolling clouds are spread
Eternal sunshine settles on its head."

Many now affirm that American representative government by gross, persistent, flagrant and sometimes corrupt dereliction on the part of our representatives in every department of public activity has failed; and that it can only be rescued and preserved by admitting the people to that larger participation in government which pending changes already noticed contemplate.

I hesitate to dogmatize on this subject; but I do believe such changes are in the main inevitable and I regard them as probably salutary.

That accomplished jurist and distinguished publicist, Mr. James Bryce, is credited with this significant dictum, in an address delivered at Washington in January, 1908.

"The time hallowed classification of forms of government divides them into Monarchies, Oligarchies and Democracies. In reality there is only one form of government. That form is the rule of the few."

In this he expresses what I believe to be the abiding conviction of a clear majority of our people as to the practical operation of our own governments, state and national, during the last generation. They resent this conclusion not unjustly and are determined to change the situation. What shall we of the profession most largely concerned in the administration of public affairs do in this matter?

I answer, emulate as well as we can what every great national leader has done in the past; stand with the people and help them to fight their battles for political righteousness, faithfully and intelligently.

Almost every one of these great popular leaders was a lawyer except George Washington and one other whom I do not mention as he is now a candidate for high office. But I will say he would be that much better equipped if he were a lawyer.

I know the laity do not always appreciate us. A very sprightly and amusing gentleman of the press, Mr. Chester H. Rowell of California has recently observed:

"The legal profession is the only one whose average thinking has remained absolutely untouched by the revolution which the evolutionary method has made in all other human thinking. The great lawyers of course understand, but even mediocre school teachers physicians or labor-unionists understand. The average mediocre lawyer still adheres to the eighteenth century method of deducing conclusions from assumed abstract principles and he imagines this habit is the mark of a 'trained mind.' It is of the sort of training illustrated by the asymmetric pectoral muscles of the tumbler pigeon whose normal method of forward flight is a back somersault. . . . What the legal profession needs is to become either a learned or an unlearned profession. Its thinking, either way, would then square with common sense. Until then, a salutary distrust of judges and lawyers will remain one of the evolutionary forces." *Supp. Am. Pol. Science Rev.*, February, 1912, pp. 149-150.

This is bright and sparkling but it is not true.

The great difficulty with the Bar as I see it is that too many of our leaders decline all participation in public affairs. Sometimes their identification with large interests does not leave them altogether free; sometimes they are disgusted and repelled by the littleness and pettiness of politics; while most of us feel compelled, by our necessities, to devote all our time and energies to our exacting professional labors.

But the people have no distrust of lawyers, as could be readily demonstrated did time permit.

There is no more patriotic, intelligent and capable order in the state than the American Bar.

As long as the Bar is true to its traditions, this will be so in spite of our journalistic critic.

The fact is we now hold more than our share of the offices and always have. Perhaps this annoys him. I must also add, at the risk in these stirring times of venturing on very dangerous ground, that no editor has ever been elected President. Possibly some might consider this as further evidence of popular wisdom and discrimination. However, I make no such statement.

But great opportunities involve corresponding responsibilities. We must bear our part in this great struggle.

We cannot sympathize with those who refer to popular rule as government by the mob; we cannot forget the teachings of our great national leaders who have been lawyers—Jefferson, Jackson and Lincoln; and Hamilton too. For this is what Alexander Hamilton wrote on one occasion:

“Is it not the glory of the people of America, that whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience? To this manly spirit, posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theatre, in favor of private rights and public happiness.” Hamilton No. 14 Federalist.

It is idle to talk of the failure of a pure Democracy in Athens; as if those who propose present reforms expected to summon 15,000,000 electors to meet in some national agora for legislative purposes. Nor has the older world ever seen such an intelligent, such a patriotic and such a capable constituency as the people of this country.

Of course they will make mistakes; nor can we by any governmental changes inaugurate the millennium. National like individual welfare depends on the essentials of character. But intelligence, courage, energy, integrity and self reliance are our inheritance as a people. These qualities have carried us safely through the trials of the past; they will be adequate to those of the present and the future.

When I refer to the people, I do not mean the mass as distinguished from the leaders. I include all the people; the good and the bad, the wise and the foolish, the rich and the poor, the weak and the strong. We are all in the same boat and we must sink or float together.

We need and must have intelligent leadership; and you, gentlemen of the Bar, have always furnished it, you are furnishing it now and will I have no doubt continue to do so in the future.

Let us not take counsel of our fears nor share the dark forebodings of some of those elderly gentlemen, and their satellites, located largely at the lower end of Manhattan Island, who occasionally pause in their benevolent efforts to reorganize, for reasonable commissions, some more or less infant industry, or other languishing enterprise, or from their laudable occupation of clipping coupons, to emit a few hoarse and dolorous prognostications, bewailing the prevalent "spirit of unrest" and declaring the outlook for the future to be most gloomy and portentous.

Youth looks not on the world with the eyes of age.

We are a young, vigorous and progressive nation; we have our troubles and our weakness. We see them and propose to deal with them, not merely by chanting over some outworn governmental creed nor pronouncing, with credulous faith, some sacramental political formulary.

On the contrary, we are a practical people. We live not in the past but in the present and for the future. We must find and we shall find remedy for demonstrated evils; and we may well rest secure in the abiding conviction that the only great repository of political power on which, for the best governmental results, we not only can but necessarily must rely, is the great body of the people who, in politics, have no other interest, and never can have, than honest and efficient government.

I close this address, already too long, with an extract from a most intelligent and interesting work on social evolution which, though written some years ago, speaks with a freshness, enthusiasm and yet propriety, that well fits the present hour.

"The fact of our time which overshadows all others is the arrival of Democracy. But the perception of the fact is of relatively little importance if we do not also realize that it is a new Democracy. There are many who speak of the new ruler of nations as if he were the same idle Demos whose ears the dishonest courtiers have tickled from time immemorial. It is not so. Even those who attempt to lead him do not yet quite understand him. Those who think that he is about to bring chaos instead of order do not rightly apprehend the nature of his strength. They do not perceive that his arrival is the crowning result of an ethical movement in which qualities and attributes which we have been all taught to regard as the very highest of which human nature is capable, find the completest expression they have ever reached in the history of the race."

APPENDIX

REFERRING TO CHANGES IN THE LAWS OF THE SEVERAL STATES SINCE THE LAST MEET- ING OF THE ASSOCIATION.

ARIZONA.

At the first session of the legislature after Arizona was admitted the following, among other statutes, were adopted :

An act to prohibit foreign corporations from removing causes to the federal courts, or commencing actions therein, under penalty of revocation of license to do business in the state.

An act prohibiting the sale of the capital stock of corporations until the enterprise has received the approval of the corporation commissioner, and defining and prohibiting trusts.

An act providing for the creation of a tax commission.

An act repealing the law which prohibited the sale of liquors near public works and grading camps of railroads.

An act limiting the number of cars in a railroad train.

An act requiring a full train crew on each train.

An act requiring experienced engineers and conductors for trains.

An act requiring one year's experience as a telegraph operator in telephone operator's receiving or transmitting messages for the movement of trains.

An act fixing eight hours of labor for miners, hoisting engineers and smelter men.

An act making void contracts in advance between employer and employe for the settlement of damage suits.

An act prohibiting blacklisting.

An act regulating child labor.

An act restricting aliens in the right to hold and lease real estate.

An act providing for the punishment of desertion of wife or child.

An act providing for indeterminate sentences.

An act prohibiting the employment of teachers in the public schools suffering with tuberculosis.

Reference has already been made to the proposed amendment to the constitution as to the recall of judges and to the act providing an advisory recall of federal judges and senators.

A special session of the legislature adopted the following, among other legislation:

A so-called white slave act.

An act denying corporations the right to contribute to political campaigns.

An act denying state officials the right to use and the railroads to issue passes.

An act referred to as the "Three-Cent-Fare Bill," to regulate the transportation of passengers by common carriers.

An act providing that corporations shall pay their employes semi-monthly.

A compulsory workmen's compensation act.

An act providing for an inheritance tax.

An act requiring the payment of services of laborers within five days from the time the money earned is due, and fixing a daily rate to be paid for time thereafter until such payment is made.

A law prescribing the terms upon which licenses shall be issued to foreign corporations seeking to do business in that state.

A pure food act.

An act providing for publicity of campaign contributions and expenditures before and after election.

An act to provide for the care of blind infants.

An act providing for automobile and motorcycle license taxes.

A general registration act and primary law for elections.

CALIFORNIA.

FIRST EXTRA SESSION.

Chapter 1. A new act was passed for the registration of voters.

Chapter 8. An act providing for the confinement and care of persons addicted to the intemperate use of narcotics or stimulants, so as to have lost the power of self-control.

Chapter 14. An elaborate act providing for the organization of the Railroad Commission, and defining its powers, duties, etc., called the "Public Utilities Act."

Chapter 17. An act amending the law as to primary elections, etc. This contains one valuable feature in particular, in that it provides for the order in which names are to be printed on ballots, in such a way as to, so far as possible, permit each candidate to have his name at the head of the list on equal terms with all the others.

Chapter 18. A presidential primary act was also passed.

Chapter 19. An elaborate act providing for the organization and management of municipal water districts.

Chapter 22. An act regulating reciprocal or inter-insurance contracts.

Various acts amending the banking laws of the state.

Chapter 30. An act providing for the recall of elective officers of counties and subdivisions thereof.

Chapter 31. An act providing for the initiative and referendum in counties.

Chapter 32. An act providing for the recall of officers of cities and towns.

Chapter 33. An act to provide for the initiative and referendum in cities and towns.

Chapter 39. An act imposing additional duties and conferring additional powers upon the Industrial Accident Board.

Chapter 40. An act to provide for submitting to the electors of every city and county or town the question whether such county, city or town, should retain the powers of control vested therein respecting public utilities, or surrender the same to the Railroad Commission.

Chapter 41. An act regulating and limiting the appropriation and use of water for generating electricity, or electrical or other power, and for other purposes.

Chapter 46. An act as to election ballots.

Chapter 47. Another act as to the election and registration of voters.

Chapter 48. An act providing for the appointment of a registrar of voters in counties by the Board of Supervisors thereof.

Chapter 53. An act to provide for keeping by employers of a record of injuries suffered by their employes, reporting the same to the Industrial Accident Board, etc.

Chapter 54. A further act as to the registration of voters.

Chapter 61. An act amending the law as to the approval of ballot machines by the State Commission.

SECOND EXTRA SESSION.

Chapter 1. An elaborate act to provide for the protection of horticulture, and to prevent the introduction into the state of insects, diseases, or animals injurious to fruit or fruit trees, vines, bushes or vegetables.

Constitutional amendments were submitted regulating the deposit of moneys belonging to the state, and providing for the publication of free text books.

CONNECTICUT.

Amendments were proposed to the constitution, one of which provides that appeals to the courts may be granted from orders or decisions of executive or administrative authorities, and that new trials may be granted for errors committed by the court in fact as well as in law.

Another one concerning the power and duty of the governor as to signing bills.

Another prescribing the terms of office for state officers and members of the General Assembly.

Another prescribing the conditions on which an elector forfeits his right.

Another prescribing special legislation under some circumstances; and one or two others of minor importance.

The following, among other acts, were passed:

Chapter 295. An act amending the law as to the assessment and collection of personal or poll taxes.

Chapter 288. An act authorizing the Public Utilities Commission, on application of the selectmen of a town, or the mayor and council of the city, to make all necessary orders as to laying side-tracks at grade.

Chapter 283. An act concerning the taxation of railroad companies.

Chapter 282. An act providing for an eight-hour day for certain trades in the mechanical departments of all state institutions.

Chapter 280. An act as to weights and measures, providing for county and city sealers and prescribing their duties and powers, with certain penal provisions.

Chapter 278. An act making various regulations as to the employment of minors and children in mercantile establishments other than manufacturing or mechanical.

Chapter 277. An act prohibiting the conducting of business under an assumed name, etc., except in compliance with the terms of the act.

Chapter 276. An act compelling telephone companies under certain conditions to extend their service to those desiring it.

Chapter 275. An act providing for sealed proposals for the labor of those in penal or other institutions.

Chapter 267. An act amending the law for the improvement of public roads.

Chapter 263. An act amending the ballot law.

Chapter 255. An act providing for increased punishment upon a second or third conviction.

Chapter 260. An act providing that where machinery and fixtures in a manufacturing plant are mortgaged without the real

estate, and the mortgage contains an after acquired property clause, it shall be valid as to such after acquired and substituted property.

Chapter 249. An act providing that an appeal from sentence of imprisonment in a criminal case shall not stay such sentence, unless it is so ordered by the judge trying the case.

Chapter 246. An act revising the law as to the militia.

Chapter 244. An act regulating the interest to be charged for the loan of money, providing, however, that it shall not affect any prior loan, nor one made by a national bank, or any bank or trust company incorporated under the laws of the state, nor any mortgage exceeding \$500.

Chapter 243. A corrupt practices act, providing among other things to secure publicity in such matters.

Chapter 241. A revised act concerning tenement houses.

Chapter 206. An act authorizing the adoption of the merit system.

Chapter 199. An act concerning the transfer of prisoners from the state prison to the reformatory.

Chapter 198. An act concerning the adoption of persons of full age.

Chapter 185. An act penalizing combinations to increase the price of the necessities of life.

Chapter 182. A uniform bills of lading act.

Chapter 175. An act providing that in any civil action in which a party is insane, or unable to testify by reason of disability, physical or mental, the entries and memoranda of such person made while sane relevant to the matter in issue may be received.

Chapter 163. An act against blacklisting.

Chapter 159. An act requiring every physician to report cases occurring in his practice of poisoning from lead, phosphorus, arsenic, etc., contracted as the result of the patient's employment.

Chapter 153. An act providing for the detention of witnesses in criminal cases.

Chapter 130. An act amending the act concerning guardians and minors.

Chapter 128. An act creating the Public Utilities Commission

and providing for the regulation and supervision of public service corporations.

Chapter 123. Another act regulating the employment of children in certain occupations.

Chapter 96. An act prohibiting the common drinking cup.

Chapter 95. An act requiring individual towels in hotels and public lavatories.

Chapter 119. An act prohibiting employment of children under fourteen years of age in any mechanical, mercantile, or manufacturing establishment.

These acts were passed at the legislative session in 1911, but so late in the year that they were not available for notice at our last meeting.

DISTRICT OF COLUMBIA.

No. 12. An act was passed to define and classify health, accident and death benefit companies and associations operating in the District of Columbia.

No. 47. An act to provide for the punishment of persons in possession of stolen property in the District, having stolen the same outside of the District.

No. 80. Also an act amending the act relating to the Metropolitan Police Force.

No. 138. An act providing for the protection of the interests of the United States in certain waters and lands adjacent thereto.

Among the bills pertaining to the District and which failed of consideration, but remain for action at the next session, are two measures which seek to provide humane methods for the commitment of the insane to the large government hospital in the District. These bills follow laws now in force in various other states. House Bill 25,664, which provides for the voluntary commitment of patients of this unfortunate class, has been drawn in conformity with the laws of Massachusetts, New Jersey and Illinois, and shows an appreciation of the growing opinion that the hospital conception of insanity as a disease should be of first importance in the preparation of laws necessary to the proper care and treatment of persons belonging to this afflicted class.

GEORGIA.

The legislature of this state meets on the first Wednesday in June each year, and the session is for fifty days. The acts herein-after referred to are those passed at the session last year, and therefore practically too late for notice at our last meeting.

LAWS OF 1911.

Page 41. An act was passed providing for the manufacture of hog cholera serum and its distribution through the State Veterinarian at the actual cost of production.

Page 68. An act was also passed making a wife a competent witness against her husband where before his marriage to her he was charged with seduction and married her either before or after indictment to suspend the prosecution, and for other purposes. This act also provides that such prosecution may be arrested before arraignment and pleading by the marriage of the parties or a *bona fide* continuing offer to marry on the part of the man, provided, that at the time of obtaining the marriage license he give a good and sufficient bond in such sum as the Ordinary may deem reasonable, payable to the Ordinary and his successors, and conditioned for the maintenance and support of the woman and her child or children, if any, for the period of five years. If he is unable to give this bond, prosecution shall not terminate until he shall live with the woman in good faith for five years.

Page 74. An act was passed providing that any judge of the Superior Court of any circuit in which a crime is alleged to have been committed may change the venue for the trial of that case on his own motion, with or without petition, whenever, in his judgment, the accused party will be lynched, or there is danger of violence being attempted to be committed on the accused if carried back or allowed to remain in the county where the crime is alleged to have been committed.

Page 133. Another act provides for the establishment of a department of commerce and labor, defining the duties of the commissioner, which are, among other things, to gather information and statistics concerning labor, labor conditions, hours of

labor, earnings, etc., also concerning the location and capacity of mills, factories, etc., and the output of manufactured products, character and amount of labor employed, raw material used, capital invested, and also to investigate concerning the operation of various laws as to the safety of life and limb of employes, especially those concerning the employment of child labor and of women. He may inquire into the cause of strikes and lock-outs, and, whenever practicable, offer his good offices to the contending parties in the effort to adjust such matters.

Page 137. An act for the protection of game was passed.

Page 151. An act known as the anti-lobbying law was also passed, which requires an attorney appearing before any committee of the legislature to file in the office of the Secretary of State papers stating the name of his employer, together with the subject matter of the legislation in reference to which service is to be rendered, and to make a subsequent report in the matter. This law prohibits contingent compensation for such services.

Page 163. An act was passed making contracts by minors with any educational institution for a loan for educational purposes valid.

Page 180. An act was passed requiring all sellers of beer in Georgia to take out licenses for the sale of a certain kind of beer claimed to be not intoxicating.

The legislature now in session has before it a bill to prohibit in Georgia the manufacture and sale of any beverage which contains as much as one-half of one per cent of alcohol. It is not supposed, however, that this bill will become a law.

Page 186. An act was passed prescribing fixed salaries for clerks of court, sheriffs and other officers, in lieu of fees.

Page 197. An act was passed to prohibit the printing or publishing of the name or identity of any female alleged to have been raped, or upon whom an assault with intent to rape may have been made.

IDAHO.

Chapter 4. An act was passed to amend the law relating to highways.

Chapter 5. An act was passed to amend the insurance act.

Chapter 6. An act was passed requiring an annual statement from corporations, domestic or foreign, and providing that they shall take out licenses, and otherwise regulating their business.

Chapter 8. An act was passed relating to the assessment, levy and collection of taxes, considerably revising the law on this subject.

Chapter 13. The school laws of the state were also amended.

Two constitutional amendments were proposed, but not of any particular general interest.

ILLINOIS.

The legislature of Illinois has held three special sessions since the date up to which the report on legislation at our last meeting was brought. The first merely passed appropriations to pay the expenses of the special session. At the second the only legislation of general importance was as follows:

Page 42. An act amending the primary law so as to provide for the appointment by each candidate of challengers or watchers in each precinct.

Page 43. An act providing for presidential primaries.

Page 46. An act regulating fraternal benefit societies.

Page 48. An act providing for mutual insurance against liability in consequence of accident or casualty of employes or other persons.

Page 51. An act amending the park legislation, providing for condemnation proceedings in certain cases, and making other provisions as to this general subject.

Page 66. At the third special session an act was passed revising the laws of the state relating to charities.

Page 87. An act was passed amending the act as to sanitary districts.

KENTUCKY.

Chapter 3. An act was passed amending the laws of that state as to intoxicating liquors.

Chapter 4. A lengthy act creating a department of banking, providing for the appointment of a commissioner, deputy commissioner and examiners, prescribing their duties, etc., was passed.

Chapter 5. Also an act relating to fire, lightning, hail, wind-storm and sprinkler leakage insurance.

Chapter 7. Also an act providing for the nomination of candidates at primary elections and for placing the names of candidates on the ballots to be voted for at general elections.

This act provides for the nomination of party candidates for the office of United States Senator, but it does not apply to certain candidates for school offices, nor to candidates for presidential electors.

Chapter 8. Also an act appointing matrons for jails in cities of the first class.

Chapter 16. Also an act to create and establish a department of public roads, and creating the office of State Commissioner of Public Roads, and prescribing his duties and compensation.

Chapter 18. An act to provide for the investigation of fires and providing for the appointment of a fire marshal and assistants.

Chapter 25. An act amending the school law of the state at some length.

Chapter 33. An act proposing to amend the constitution by allowing the employment of convict labor upon public roads and bridges.

Chapter 34. Another like act to amend the constitution in respect to the levy and collection of taxes, the classification of property for the purpose of local taxation, and that any tax law passed under such amendment should be subject to a referendum, and it shall not be subject to veto.

Chapter 35. A long act was passed for the protection of game and fish.

Chapter 47. Also an act permitting women to vote for the election of school trustees and some other school officers, and upon school questions, and to hold common school offices, except such as women are disqualified from holding under the constitution.

Chapter 49. An act amending the law as to liability insurance companies.

Chapter 60. An act prohibiting the use of public drinking cups.

Chapter 66. An act making appropriation to secure the birth-

place of Jefferson Davis and to erect thereon a suitable memorial to his memory.

Chapter 77. An act to regulate the employment of females in order to safeguard their health which provides, among other things, that no female under 21 years of age shall be employed or permitted to work at any gainful occupation, except domestic service and nursing, more than sixty hours in any one week, or ten hours in any one day.

Chapter 86. An act to regulate the sale of opium, or its alkaloids, or their derivatives or any mixture thereof.

Chapter 93. An act to amend the law as to the deposit by domestic life insurance companies with the State Treasurer of Kentucky.

Chapter 95. An act to regulate the practice of dentistry in the State of Kentucky.

Chapter 96. An act to secure compulsory attendance in the common schools and graded common schools of Kentucky.

Chapter 99. An act to regulate telephone companies.

Chapter 101. An act to aid and promote the building of good roads, as to the acquisition of toll roads by counties.

Chapter 104. An act as to permitting husband and wife to testify for or against each other.

Chapter 106. An act providing for the creation of a parental home for the care and protection of unfortunate, dependent, neglected or orphan children.

Chapter 110. Another act defining public roads and providing for their establishment, construction and regulation. This seems to be a very comprehensive act on this subject.

Chapter 111. An act providing for the creation of a commission known as the Kentucky Board of Tuberculosis Commissioners. This act contemplates the establishment of sanitariums or hospitals for the treatment of tuberculosis under public authority or control.

Chapter 112. An act to establish a police pension fund in cities of the first class.

Chapter 114. An act relating to life and casualty insurance upon the co-operative or assessment plan.

Chapter 118. An act relating to circuit courts having seven

judges, prescribing the method of their election to some extent, and that they shall be chosen for service in the criminal, chancery or common pleas branch.

Chapter 122. An act to provide for the creation, control and disposition of a fund for pensioning firemen in cities of the first class.

Chapter 126. An act to regulate the assignment or other transfer of wages where a whole or a part consideration therefor is less than \$200.

Chapter 127. An act relating to the selection of jurors and re-enacting certain sections of the Kentucky statutes in that regard.

Chapter 128. An act to require railroad companies to stop all passenger trains at any stations where a state penitentiary is located.

Chapter 129. An act providing annuities for aged, infirm, disabled or retired teachers in cities of the first class.

Chapter 132. An act relating to the drainage of lands, etc. This is an act of some 35 pages in length, containing very full provisions on the entire subject of ditching, draining and reclaiming wet, or overflowed lands and protecting them by levees under public control.

Chapter 133. An act to establish a State Board of Forestry. This is a conservation act intended to protect the forests of the state, and to promote their proper care and development.

Chapter 135. An act to prevent the sweating of prisoners, which has been already referred to.

Chapter 137. An act creating Boards of Education for cities of the second class, and providing for the election thereof, and defining their powers and duties.

Chapter 140. An act amending the tenement house act and revising the law considerably on this subject.

Chapter 141. An act amending the act for the government of cities of the fourth class, considerably revising the law on this subject.

Chapter 142. An act to provide for the organization of the militia, which establishes quite an elaborate military code for this state.

Chapter 143. An act to provide for the interchange and transmission of messages between telephone companies.

LOUISIANA.

Among the legislative acts of the legislature of this state at its late session are the following:

No. 20. An act requiring seats on street cars for the operator and conductor.

No. 24. Joint resolution proposing an amendment to the constitution exempting certain classes of voters from the consequences of failure to possess the educational or property qualifications prescribed.

No. 27. An act requiring public service corporations to have two pay days each month.

No. 32. An act requiring lawyers licensed in other states to take a Bar examination as a condition of admission in Louisiana.

No. 34. A flag law to prevent improper use of the national flag.

No. 40. An act levying a tax on itinerant agents selling stocks and bonds and regulating such sales.

No. 44. An act limiting the liability of a bank to its depositors for payment of forged checks to one year after the return of checks so paid to the depositor.

No. 47. Joint resolution ratifying the income tax amendment to the federal constitution.

No. 54. An act providing, among other things, that marriages contracted between persons one or both of whom were domiciled in Louisiana and forbidden to marry shall not be there deemed valid because contracted elsewhere and where not prohibited, if the parties after such marriage return to live permanently in Louisiana.

No. 65. An act providing that it shall be lawful to mortgage lumber, logs and live stock and regulating the method of doing so.

No. 72. An act prohibiting false representations for the purpose of obtaining money or credit for the benefit of the maker of such representations, or any other person, firm, or corporation in which he is interested or for whom he is acting.

No. 93. An act revising the law as to holidays and making Saturday afternoons half holidays in all cities of over ten thousand.

No. 94. The uniform bill of lading act.

No. 95. An act permitting insurance companies to make investments in addition to those before permitted.

No. 105. An act rendering a wife competent as a witness for or against her husband in prosecutions for failure to support wife or child.

No. 110. An act providing for a commission to prepare and recommend amendments to the constitution as to assessments and taxation.

No. 114. An act against fraud in buying goods on credit and providing that a sale in bulk out of the ordinary course of business of a stock of goods shall be prima facie void against creditors except on certain conditions.

No. 117. An act authorizing municipalities to refuse permits to built negro houses in white communities and vice versa.

No. 127. An act to create a conservation commission and to define its duties and powers.

No. 132. A joint resolution for a constitutional amendment in respect of incurring debt by municipalities.

No. 133. Joint resolution for an amendment to the constitution providing for the recall of all elective officers, excluding judges.

No. 138. An act to regulate the practice of nursing.

No. 141. A comprehensive act providing for the state printing.

No. 142. An act providing for an employer's liability commission.

No. 144. An act requiring counsel and agents employed to appear before certain state boards or commissions to file sworn statements disclosing their employers, their expenditures, etc.

No. 147. Joint resolution for a constitutional amendment relating to the jurisdiction, etc., of district courts.

No. 150. An act to create a commission to revise and prepare amendments to the laws of the state relative to corporations.

No. 155. Joint resolution proposing an amendment to the constitution relative to pensions for Confederate veterans.

No. 157. An act providing for simplified pleading and practice. This is a short act which might well serve as a model code of civil pleading.

No. 159. An act providing a new charter for the City of New Orleans under the commission form of government, with the initiative, referendum and recall, which act is to be submitted to the voters of that city August 28 of this year.

No. 161. An act creating a state tuberculosis commission, specifying its powers, etc.

No. 162. This is a resolution for an amendment to the constitution to permit women to hold any office connected with the educational system of the state, or of any ward, parish or municipality, and any office in the state connected with institutions of charity and correction.

No. 175. An act to authorize the State Railroad Commission to award reparation to shippers.

No. 176. An act already referred to providing that a will executed without the state in the mode prescribed by the law either of the place where executed or of the testator's domicile shall be deemed to be legally executed and of the same force and effect as if executed according to the laws of Louisiana, provided it is in writing and subscribed by the testator.

No. 184. An act prohibiting the exhibition of children under sixteen in theatrical and other exhibitions.

No. 187. An act providing that in actions against public service corporations for personal injury assumption of risk by an employe or negligence of a fellow servant shall not be a defense, but may be considered by the court in determining the measure of damages.

No. 190. An act defining what is necessary to justify an affidavit for the issuance of a writ of sequestration under the code.

No. 191. An elaborate act governing the militia and establishing a military code.

No. 192. An act making it a felony for any person over seventeen to have carnal knowledge of any unmarried female between the ages of twelve and eighteen years.

No. 193. An act to require all railway and street railway companies using the streets of a municipality to keep in good condition and suitable for vehicular traffic that portion of the street covered by such track, and when such street is paved to keep such paving in repair and renew the same when necessary.

No. 194. An act requiring foreign corporations to file with the clerk of court of the parish in which they have an established place of business, the name of a designated agent upon whom process may be served.

No. 195. An act creating a lien on telephone and telegraph poles and cross ties manufactured, and on all logs and timber out of which same are to be manufactured, in Louisiana, in favor of the land or stumpage owner, laborers, furnisher of supplies and parties advancing money for the manufacture of same.

No. 197. An act permitting executors and others in a fiduciary capacity to purchase at the sale of the effects of the deceased, or the beneficiary, under certain circumstances.

No. 198. An act regulating primary elections, making it compulsory that all nominations for candidates for United States Senator, members of the House of Representatives, State, District and Parochial officers and members of the Senate and House of Representatives of the state, and for city and ward offices in all cities, towns and villages shall be made by direct primary.

No. 200. An act making it the duty of clerks of court in docketing divers proceedings to state whether the parties litigant are colored or white.

No. 203. Joint resolution proposing an amendment to the constitution of the state in reference to the Board of Liquidation of the State Debt.

No. 204. An elaborate conservation act relating to conservation of the soil, mineral and forestry resources of the state, and also to game birds, fish and other game.

No. 207. An act to provide a form of government for certain cities of the state, the city of New Orleans excepted, which provides for the commission form of government, provided the people of the cities included shall so vote.

No. 209. An act to levy an annual license tax upon all persons, firms, corporations or associations engaged in the business of

appropriating natural products including timber, turpentine, minerals, etc.

No. 212. An act to provide for registrars of voters and their clerks in the parishes of the state, except the Parish of Orleans.

No. 213. An elaborate corrupt practices act.

No. 214. An act relating to public schools and public education and providing a revenue for the same.

No. 215. An act to protect the transfer of stocks. This provides that the person, firm or corporation in whose name a certificate of stock stands or to whom it is endorsed, whether in full or in blank and who has possession of the certificate, shall be regarded as the legal owner thereof, with full power to pledge, sell, or otherwise dispose of it.

No. 219. An act to amend previous legislation as to the establishment of drainage districts.

No. 222. An act making it unlawful for public utilities corporations to require their employes to give as surety any bonding company designated or named by such corporation.

No. 224. An act to prevent fire insurance companies, associations and partnerships or their agents doing business in Louisiana from entering into combinations to control rates for fire insurance.

No. 229. An act to amend the law relating to license taxes for various occupations.

No. 230. Joint resolution proposing an amendment to the constitution providing for the exemption from taxation for ten years from the date of its completion of all railroads or parts of railroads constructed subsequently to June 1, 1912.

No. 233. An act requiring Notaries Public in New Orleans to deposit in the office of the clerk and recorder of the parish in which the property is situated, whenever the property affected is outside of the city of New Orleans, the original of all acts of sale, exchange, donation and mortgage of movable property passed before them.

No. 234. An act to define and punish lotteries.

No. 235. An act to carry into effect the proposed amendment to Article 223 of the constitution providing for the recall of any officer of the state except judicial officers, and any officer of any district, municipality or ward.

No. 236. Joint resolution proposing an amendment to Article 291 of the constitution of the State of Louisiana relative to taxation for the construction and maintenance of public roads.

No. 237. An act requiring pure air in rooms in which three or more linotype or other type casting machines are operated.

No. 240. An act to prohibit employers from lending or advancing to their employes at a greater rate of interest than fixed by law.

No. 242. An act to declare what records, writings, accounts, letters, letter books and copies thereof shall be public records, etc.

No. 243. An act to amend the law in respect to foreign corporations doing business in Louisiana.

No. 244. An act to amend the law in respect to local and foreign building and loan or homestead associations.

No. 245. An act to regulate the employment of stationary firemen other than those employed in the petroleum industry, cotton gins, on sugar plantations, or in the saw mill industry, providing for an eight-hour day.

No. 247. An act amending the law relating to the State Board of Accountants.

No. 248. An act authorizing cities and towns to procure and operate water works, sewerage and lighting systems, to supply cities and towns and the inhabitants thereof with such service, and to make rates therefor, authorizing the issue of bonds, etc.

No. 250. An act requiring the immediate payment of laborers on demand when they are discharged.

No. 256. An act to amend the law in respect to the organization, admission and regulation of associations transacting the business of life, accident, sick benefit, or physical disability insurance on the fraternal plan.

MAINE.

There has been no regular session of the legislature of Maine since the last meeting of our Association. Under the initiative clause, however, in the constitution of that state, a primary election law was proposed and adopted by the people at a special election in September, 1911, applying to all elective state and county officers and also to United States Senators and Representatives, but not to electors for President and Vice-President, nor to

municipal officers of cities and towns. The primary elections are to be held on the first Monday of June in each year when officers are to be chosen, beginning in the year 1912. Candidates must have presented to the Secretary of State thirty days before the primary a petition to place their name on the official ballot, which must be signed by a certain percentage of voters and must be accompanied by the written statement of the candidate that he will accept the nomination if successful. Only the names of such persons will be printed on the ballots, but a blank space is left in which the voter may write in the name of any person he desires to vote for. The ballots of the different parties are indicated by their color. Successful candidates must file with the Secretary of State, who advises them of their nomination, a written acceptance of the nomination and a statement of expenditures made by them and for them in the canvass. These expenditures are limited in amount.

At a special session of the legislature in March, 1912, an act was passed making some changes in the conduct of elections and the preservation of the ballots, which, however, under the referendum clause of the constitution, is to be voted on in September. At the special session the legislature submitted to the people a proposition to amend the constitution so as to empower the legislature to borrow not exceeding two millions of dollars for expenditure on the highways of the state.

MARYLAND.

Among the acts passed by the legislature of this state at its recent session were the following:

Chapter 1. An act relating to the ballot law.

Chapter 2. An act relating to primary elections, prohibiting bribery, corruption, intimidation, etc., in relation thereto.

Chapter 69. An act to allow the recording of marriage records in Maryland of marriages contracted outside of the state where one or both the parties is or are a citizen or citizens of Maryland.

Chapter 73. An act as to the issuance of marriage licenses.

Chapter 78. An act authorizing the administrator of a person to whom, as agent or trustee, a certificate of stock has been issued by any corporation of Maryland, which certificate has been lost,

to collect in certain cases unpaid dividends on stock and receive in his own name a new certificate, where it is not known who is or was the beneficiary.

Chapter 79. A ten-hour day law for women.

Chapter 91-92. Two acts regulating the laws of descent.

Chapter 115. An act imposing a tax on the interest paid on mortgages in certain counties and abolishing it in other counties.

Chapter 117. An act regulating procedure in condemnation.

Chapter 124. An act amending the law touching nominations to office.

Chapter 134. A presidential primary act.

Chapter 135. An act providing that teachers who have taught a certain number of years be placed on the teachers retired list and receive pensions.

Chapter 144. An act providing that persons who on the termination of a life estate are then the heirs or heirs of the body of such tenant for life shall take as purchasers by virtue of the contingent remainder so limited to them.

Chapter 146. An act permitting administration where persons die leaving real estate in Maryland, but no personal estate.

Chapter 156. An act prohibiting the use of a common drinking cup in public places.

Chapter 173. An amendment as to the school age of children.

Chapter 207. An act in effect January 1, 1913, changing the amounts payable by insurance companies doing business in Maryland.

Chapter 370. An act to provide for certificates of indebtedness of the state to the amount of \$3,170,000, to be used by the State Roads Commission to construct and maintain a system of state roads.

Chapter 427. An act permitting capitalization of franchises in certain cases.

Chapter 451. An amendment to the law as to the sale of goods in bulk.

Chapter 496. An act to provide for jury trials as to whether any convict confined in any jail has become insane or a lunatic, and if so found to authorize his removal to some suitable institution at the public expense.

Chapter 517. An act giving railroad companies the right to change in whole or in part from steam motive power to electric motive power without, however, being relieved from the provisions of law as to steam railroads by such change.

Chapter 596. An act creating the penal system commission which is largely an investigating body authorized to examine the state penal institutions and report the results of its investigations with recommendations to the next session of the General Assembly.

Chapter 640. An act to authorize the Governor of Maryland to cede highways, state roads, etc., for the purpose of a memorial highway to the memory of Abraham Lincoln.

Chapter 653. An act giving jewelers and silversmiths a lien for repairs for two years.

Chapter 656. An act providing for the establishment of levee and drainage districts, etc.

Chapter 696. An act providing for the registration of all births and deaths within the state, defining the duties of the State Board of Health and the State Registrar of Vital Statistics.

Chapter 731. An act to revise the child labor laws of the state.

Chapter 837. An act to facilitate the insurance of employes against the consequence of accidents resulting in personal injury or death and to permit agreements between employers and employes with reference to such accidents.

Chapter 842. An act to establish a state laboratory for the production of tuberculin, hog cholera serum and other biological products.

Chapter 846. An act giving the state the right in certain criminal cases to challenge ten instead of four jurors, leaving to the accused twenty.

MASSACHUSETTS.

In addition to the minimum wage law already noticed briefly, the legislature of Massachusetts has passed the following, among other acts:

Chapter 502. An act to shorten the form of deeds, mortgages and other instruments relating to real property.

Chapter 304. An act to authorize conveyances of real estate between husband and wife, permitting them to convey directly to each other, except by way of mortgage.

Chapter 595. An act permitting the organization of corporations for engaging in the business of buying and selling real estate. This is undoubtedly a most salutary and excellent change of policy on the part of Massachusetts and might well be emulated in all the rest of the states.

Chapter 493. An act relative to the probate of wills, which provides that if the probate is assented to in writing by the widow or widower of the deceased, if any, and by all the heirs at law and next of kin, it may be allowed without testimony.

Chapter 678. An act amending the inheritance tax law so that now in Massachusetts only the real estate of a deceased non-resident is taxed on the theory that the tax on his personal property at the time of death should go to the state where he resides.

Chapter 542. An act repealing a statute that an engagement of an attorney of record shall be an excuse for not proceeding to trial in certain cases.

Chapter 649. An act providing that if a person elect to bring suit in the Municipal Court of Boston which he might have begun in the Superior Court, he is deemed to have waived trial by jury and his right to appeal to the Superior Court.

Chapter 175. An act providing that in any corporation having two or more classes of stock of different par value, the voting powers of the different classes may be fixed in proportion to such par values respectively.

Chapter 271. An act providing that no conditional sales of heating apparatus, plumbing, or other personal property afterwards attached to the real estate shall be valid against a mortgage or purchaser of the real estate, unless recorded in the city clerk's office within ten days after making the contract of conditional sale.

Chapter 277. An act providing that no bank shall be liable to a depositor or drawer for the payment of a forged instrument unless within one year after the return of said instrument to the depositor or drawer he notifies the bank in writing of the facts.

Chapter 354. An act increasing the amount recoverable from a railroad corporation for death through negligence from five to ten thousand dollars.

Chapter 651. An act prohibiting discrimination in the sale of commodities and aimed at unjust discrimination and at the

creation of monopolies and combinations to destroy the trade of others.

Chapter 635. An act regulating tenement houses in towns.

Chapter 719. An act to establish a commission on economy and efficiency for the commonwealth.

Chapter 726. An act to establish a State Board of Labor and Industries.

A joint resolution of the legislature ratifying the proposed amendment to the constitution of the United States providing that Senators shall be elected by the people of the several states.

Passed resolutions providing for an amendment to the constitution authorizing the referendum. Resolution was referred to the next general court.

Passed resolutions advocating the establishment of a parcels post system by the government of the United States.

MICHIGAN.

The legislature of Michigan, at the first session, passed the following acts, among others:

No. 1. An act to authorize the construction or purchase of detention hospitals and for the care and treatment of persons afflicted with contagious or communicable diseases in cities having a population of less than five thousand inhabitants.

No. 6. An act amendatory of the banking laws of the state.

No. 8. An act to amend the law as to recording town plats and vacating the same.

No. 9. A presidential primary act.

No. 10. An employer's liability act. This is a long elaborate act, which, however, is optional with the employe, under the usual coercion of being deprived of certain defenses if he does not come into this arrangement.

No. 12. An act to authorize the formation of mutual insurance companies whose members may be composed of persons, firms, partnerships, associations or corporations who have elected to come under the law relating to employers' liability and workmen's compensation.

At the second session, among other statutes, the following acts were passed:

No. 1. An act to amend the liquor laws of the state.

No. 3. An act to authorize the Board of Supervisors of each county to appropriate or raise money by taxation for the encouragement of improved methods of farm management and practical instruction and demonstration in agriculture.

No. 4. An act amending the statute making it unlawful for any person not regularly admitted to practice in Michigan to represent himself as being an attorney at law or a solicitor in chancery. It is provided that the act shall not apply to licensed attorneys of other states while temporarily in Michigan.

No. 8. An act to amend the law as to the conduct of, and preventing fraud and deception at elections.

No. 9. An act to amend the game laws as to the protection of game birds.

A joint resolution proposing an amendment conferring on women the right to vote. This is to be submitted at the general election in November of this year.

Joint resolution proposing an amendment relative to the amendment of the charters of cities and villages. This amendment seems to be calculated to give a very large measure of local self-government to cities and villages.

MINNESOTA.

The legislature of this state at its recent session passed the following among other acts:

A state primary election law for the nomination of all state officers. This law embraces the first and second choice that is embodied in other recent legislation on this subject following a somewhat similar law in Wisconsin. The law also provides that the justices of the Supreme Court and judges of the District, Probate and Municipal Courts, county superintendents of schools and municipal officers in cities of the first class containing a population of more than fifty thousand, shall be nominated upon separate, non-partisan ballots.

An act relating to corrupt practices at primaries and elections, very strict in its provisions and in its limitations upon expenditures, to which reference has already been made.

An act was passed for raising the gross earnings tax upon railroads from four to five per cent.

A joint resolution was passed ratifying the amendment to the constitution of the United States providing for the election of Senators by popular vote and also a like resolution ratifying the amendment to the federal constitution providing for an income tax.

An act was passed amending the law as to the employment of children.

An act was passed regulating foreign fraternal benefit societies doing business in Minnesota.

MISSISSIPPI.

The legislature of this state passed numerous statutes relating to taxation and increasing the number of occupations subject to a privilege tax.

Chapter 101. An act providing for the levy and collection of a tax on incomes.

Chapter 108. An act for numbering and registering automobiles.

Chapter 113. An act for the taxation of freight line companies.

Chapter 114. An act for the taxation of equipment companies.

Chapter 115. An act to encourage manufactories and other new enterprises by granting five year exemption from state, county and levee taxes; and also authorizing municipalities to grant a like exemption for a period not exceeding ten years.

Chapter 120. An act providing for the commission form of government in cities which adopt the act.

Chapter 122. An act to enable the municipal authorities to appropriate funds towards the support of brass bands for the amusement and entertainment of the citizens.

Chapter 126. An act validating all municipal bonds theretofore authorized by a legal majority of the qualified electors when municipal authorities have failed to take any of the preliminary steps necessary to the issuance of such bonds.

Chapter 136. An act to prohibit hotels, restaurants, cafes,

dining cars, railroad companies and sleeping car companies from allowing tips to be given to employes, to prohibit all persons from giving the same, and to prohibit employes from receiving them. Certainly under the law as generally understood, this would seem to be entirely unconstitutional as to the person bestowing such gratuity. It seems to me to be an absurdity in any event, well illustrating the disposition of some law givers to attempt to regulate everything by law. They thus usually make more trouble than they prevent.

Chapter 138. An act to regulate the traffic in commercial fertilizers.

Chapter 139. An act to provide for and regulate the inspection, sale and analysis of commercial feeds and feeding stuffs.

Chapter 141. An act requiring corporations, companies, associations, partnerships and individuals to pay their employes in money once each month in the absence of a written contract to the contrary.

Chapter 142. An act providing for the winding up and dissolution of corporations doing business in Mississippi and owning property therein upon insolvency, or under certain other circumstances, whether such corporation is organized under the laws of Mississippi or some other state or foreign country.

Chapter 143. An act authorizing administrators, executors, and testamentary trustees, with the consent of the chancery court or chancellor in vacation, to renew encumbrances of the deceased or to borrow money to pay them off, or execute deeds of conveyance where such conveyances are necessary to carry into effect contracts made by the deceased.

Chapter 145. An act amending the law as to public roads in this state, creating a highway commission, and defining its powers.

Chapter 148. An act requiring companies to equip street cars with vestibules and provide some means of heating the same.

Chapter 149. An act authorizing the State Board of Health to establish a bureau of vital statistics.

Chapter 151. An act to make railroad corporations liable for damages for fire set directly or indirectly by locomotives and to give such corporations an insurable interest in the property along the line of the road.

Chapter 152. An act empowering the State Railroad Commission to require railroads and other corporations and persons engaged in like business to erect sheds and keep dry all tracks upon which cars are regularly placed for repairs at their shops or yards.

Chapter 153. An act to require all railroad companies to equip and maintain each and every locomotive used in main line service between sunset and sunrise with a sufficient electric headlight.

Chapter 155. An act making it unlawful for the partner of a county attorney to defend in any criminal case in the county of which his partner is the county attorney.

Chapter 156. An act to require newspapers and periodicals published in Mississippi to print the name of its editor or editors at the top of the editorial page thereof.

Chapter 157. An act to prohibit any person, firm or corporation engaged in manufacturing or repairing to work their employes more than ten hours per day except in cases of emergency.

Chapter 162. An act to prohibit corporations or trustees from acquiring lands for agricultural purposes in the state of Mississippi outside of an incorporated city, town or village, nor therein for agricultural purposes except as provided in the act.

Chapter 165. An act to regulate the employment of children in mills, factories, etc., providing no male under the age of thirteen or boy under the age of twelve shall be thus employed, and no boy under sixteen or female under eighteen shall work therein more than eight hours a day nor more than 48 hours a week, or at night.

Chapter 167. An act providing for the organization, regulation and supervision of domestic and foreign building and loan associations.

Chapter 171. An act to provide for the organization of mutual fire insurance companies.

Chapter 172. An act to regulate the sale of stock in insurance companies.

Chapter 177. An act to abolish and prohibit Greek letter fraternities, sororities and secret orders among students in the University of Mississippi and in all other educational institutions

supported in whole or in part by the state. I notice with satisfaction that the fraternity of which the President of the United States is perhaps the most conspicuous living member is not specifically mentioned in this statute, although it probably falls within its all embracing and rather trivial provisions.

Chapter 194. An act for the establishment of county and district drainage board depositories.

Chapter 195. An act to provide for the creation of drainage districts.

Chapter 196. An act to amend the law as to drainage commissioners and districts.

Chapter 197. An act to create additional methods of organizing and maintaining drainage districts and providing for validating any such districts theretofore organized that petition to come in under the provisions of this act.

Chapter 198. An act to promote the public health by providing for establishing levees, drains, canals, etc., and draining the wet swamp and overflow lands of the state.

Chapter 211. An act to provide for the punishment of officers of a bank for receiving money knowing or having good reason to believe of its insolvency without informing the depositor.

Chapter 215. An act to provide that proof of injury inflicted by engines, locomotives or cars of railroad corporations, etc., shall be prima facie evidence of want of reasonable skill and care in all actions against such corporations to recover for injuries thus inflicted.

Chapter 228. An act providing that the license of any insurance company shall be revoked on failure to pay a final judgment within ninety days after it has become final.

Chapter 229. An act reducing the rate of interest that may be stipulated by contract from ten per cent to eight per cent.

Chapter 231. An act to provide for regular annual sessions of the legislature.

Chapter 232. An act extending and making more effective mechanics liens.

Chapter 234. An act amending various sections of the statutes by substituting therein the words "county home" for the words "poor house."

Chapter 236. An act amending the law on this subject so as to require some preliminary educational qualifications and a degree of doctor of medicine for all applicants to practice medicine.

Chapter 237. An act amending the code providing for the nomination of United States Senators for regular terms and to fill vacancies.

Chapter 241. An act amending the law as to exemptions from taxation so as to embrace therein all money loaned at a rate of interest not exceeding six per cent per annum.

Chapter 250. An act amending the law of Mississippi against trusts.

Chapter 253. An act amending the law as to county prosecuting attorney.

Chapter 260. An act amending the law as to municipal improvements.

Chapter 261. An act to repeal the bribery immunity act of 1911.

Joint resolutions were also passed as follows: For an amendment to the constitution providing that the legislature shall meet on the first Tuesday after the first Monday in January, 1912, and every two years thereafter.

Another regarding the adoption of an amendment, providing that the judges of the circuit and chancery courts shall be elected by the people in the manner and at a time to be provided by the legislature and shall hold their office for a term of four years.

A resolution reciting the adoption of an amendment requiring that all amendments, changes or alterations be inserted by the legislature at the next succeeding session after the election requiring such change, alteration or amendment.

A resolution proposing an amendment so that the style of all bills shall be: "Be it enacted by the People of the State of Mississippi."

A resolution proposing an amendment that nine or more jurors in civil suits may agree on a verdict and return it as the verdict of the jury.

A resolution proposing an amendment to the constitution providing for the initiative and referendum to be voted on the first Tuesday after the first Monday of November of this year.

NEVADA.

There was a special session of the legislature of Nevada, but beyond authorizing a state loan of \$200,000 and providing an annual state tax of sixty cents on each \$100, and apportioning the same, the legislature did nothing except to repeal a few acts and make some appropriations.

NEW JERSEY.

The legislature at its session this year passed among others the following acts:

Chapters 5-6. Amending sections of the act of March 24, 1904, regulating the safety, age and working hours in factories.

Chapter 23. Eliminates justices of the peace from the persons authorized to solemnize marriages.

Chapter 28. Amends the act concerning the adoption of minors and makes provision in the case of divorce or the remarriage of parents or foster parents having custody of the child.

Chapter 30. Authorizes the use of the typewriter in making records in the county clerk's or register's office.

Chapter 75. Provides for mechanics' liens on grave stones and their removal on non-payment of the cost of erection.

Chapter 78. Validates acknowledgments theretofore taken before a foreign commissioner of deeds whose term had expired or whose commission was void at the time of acknowledgment.

Chapter 79. Permits the acknowledgment of certain certificates of married women to be taken without a separate acknowledgment apart from their husbands.

Chapter 89. Regulates the manufacture and sale of insecticides giving power to the State Chemist to examine and brand the product of manufacture.

Chapter 109. Gives effect to the exemplified copy of an order or decree of probate of a foreign will or the record of the granting of letters testamentary, as well as to an exemplified copy of a foreign will.

Chapter 206, however, contains what purports to be a subsequent amendment of the same section which repeated its

language without amendment. This seems to have been an act of legislative inadvertence.

Chapter 126 provides that the lands of minors may be sold by the Court of Chancery and the minor shall, so far as it relates to such property, be regarded as a ward of that court.

Chapter 127 makes provision for the sanitary condition of bakeries and limits the hours of service of adults as well as of children and forbids children under sixteen to work at night. This act is similar to that which was declared unconstitutional by the Supreme Court of the United States in *Lochner vs. New York*, 198 U. S. 645.

Chapter 143 authorizes acknowledgment of deeds, etc., to be made by the officers of corporations instead of taking proof by the subscribing witnesses.

Chapter 146 provides for a pension to a widow of a governor and the pension is for her natural life.

Chapter 171 forbids the use in manufacturing mattresses, bed springs, lounges or sofas of materials that have been used in a hospital or about any person having infectious or contagious diseases; also requires that any mattress, bed spring, etc., which is new shall be branded so as to show that the materials used in its manufacture are entirely new, but if they are not new, it must be branded so as to show the fact.

Chapter 199 amends and revises the law concerning marriage and makes additional requirements with regard to licenses, requiring strict inquiry to be made in regard to the identity and circumstances of the parties applying therefor.

Chapter 226 amends the collateral inheritance law, exempting from the tax the interest passing to children to whom the decedent had stood in the relation of a parent for ten years beginning before the child's fifteenth birthday.

Chapter 231 is an important act revising somewhat the practice. It was prepared by the New Jersey State Bar Association, and provides for a single form of action, for joining parties and causes of action, and that no action shall be defeated by the nonjoinder or misjoinder of parties.

It provides for alternative defenses and makes provision for

judgment without pleadings on agreed statements of fact. It abolishes writs of error and exceptions and provides for additional evidence on appeal, and also a set of new rules for pleading and practice which shall take effect unless altered by the court. These rules of practice abrogate the common law forms of pleading and provide for pleadings and practice modeled after the English Judicature acts of 1875. Forms of pleadings are given in the statute.

Chapter 239 relates to acknowledgments in foreign countries, making provision for a certificate under the great seal of the country or the seal of some court of record, that the officer was at the time of taking such acknowledgment or proof authorized by the laws of that country to take acknowledgments and proofs of deeds of conveyance for lands therein.

Chapter 202 provides for the issuance of summons in the district court without payment of cost in advance in case of suits for wages under \$20.

Chapter 210 makes a slight change in the form of a certificate of foreign acknowledgment as to the authority of persons authorized to take acknowledgments of deeds in other states, which certificate is now to be that the officer is authorized to take proofs and acknowledgments in the state where the acknowledgment is made.

Chapter 216 forbids the employment of any woman in any mercantile or manufacturing establishment, bakery, laundry or restaurant more than ten hours in any one day, or more than six days or sixty hours in any one week with the proviso that this shall not apply to any mercantile establishment for a period shortly before Christmas, or to canneries in packing perishable products such as fruits or vegetables.

Chapter 218 gives power of inspection and regulation to the state chemists touching the composition, branding and sale of concentrated feeding stuffs.

Chapter 223 provides for the employment of inmates of penal and reformatory institutions on the roads.

Chapter 265 provides for the enforcement of mechanics' liens in the city and district courts as well as the circuit courts.

Chapter 275 makes a slight change in the law of descent in favor of a mother in the absence of father, brothers and sisters of the whole blood surviving.

Chapter 293 makes the use of the word "heirs" no longer necessary to convey a fee, providing that every deed thereafter executed conveying lands shall, unless an exception be made therein, be construed to include all the estate, right, title and interest of the grantor in the land, and that the word "heirs" shall not be necessary to convey a fee.

Chapter 303 relates to misrepresentations as to the nature of insurance policies.

Chapter 313 requires non-resident executors or administrators to file with the surrogate or with the register or the county clerk a power of attorney authorizing him to accept service of process in proceedings against the estate.

Chapter 361 is a supplement to the act defining motor vehicles and provides for their registration and license, regulating speed, etc.

Chapter 396 makes further provisions for the construction and improvement of state highways.

NEW MEXICO.

The legislature of this new state at its first session passed acts concerning the bonding of the public debt and the disposition of a large body of land given to the state by the general government in the enabling act.

An act to prevent corrupt practices in connection with elections was passed.

An act providing for the study of alcoholic drinks and their effect upon the human system was also adopted.

NEW YORK.

At the session of the legislature of this state this year the following laws among others were passed :

Chapter 4, to amend the election law in relation to party committees and delegates. Provides for the election of members of the State Committee of a party at the spring primary of the year

when a president is to be elected and for the election of successors the second year thereafter; also that members of the state, county, judicial, senatorial district, congressional district, assembly district, city, borough, aldermanic district and municipal court district shall be elected at primary elections at the fall primary, except in a year when a president is to be elected, when they shall be elected at the spring primary. Election of members to a party committee may be reviewed by summary proceedings before the Supreme Court. As to delegates to national conventions it is provided that the rules and regulations of each political party may prescribe that the delegates to the national convention shall be elected either at state conventions held by such party or from congressional districts, or partly by state conventions and partly by congressional districts. Where such rules and regulations provide for the election of delegates and alternates to the national convention from congressional districts, the enrolled electors of such party in the several districts shall elect such delegates and alternates at the spring primary in the year when such national convention is to be held. In case such rules and regulations provide for the election of delegates and alternates by a state convention, the delegates and alternates to such state convention shall be elected at the spring primary in the year when the national convention is to be held.

Chapter 9 provides for the creation of a commission on barge canal operation.

Chapter 13 amends the tenement house law by giving a new definition of a tenement house.

Chapter 21 amends an act to create a commission to investigate the conditions under which manufacture is carried on in cities of the first and second class, extending the time of the commission within which to report, and enlarging the scope of its investigations.

Chapter 26 defines cider vinegar and adulterated vinegar.

Chapter 49 amends the banking law relative to the reserve of trust companies.

Chapter 59 amends the law as to insanity by providing a scheme for retirement upon annuities of the employees of state hospitals.

Chapter 60 amends the law relative to kindergarten training and instruction of blind babies and children.

Chapter 61 makes additional appropriations for the deportation of the alien insane.

Chapter 62 makes provision for the appointment of official referees in the appellate division of the Supreme Court of the first department.

Chapter 74 amends the general municipal law as to the acquisition and development of forest lands by counties, towns and villages.

Chapter 82 makes an appropriation of \$30,000,000 to be expended in carrying out the purposes of the act for the improvement of the Erie Canal, the Oswego Canal, and the Champlain Canal.

Chapter 83 is a comprehensive act amending the highway law of the state.

Chapter 88 is an amendment to the highway law in relation to state and county highways in cities of the second and third classes and in relation to the expense of county highways in such cities.

Chapter 89 amends the insurance law as to the annual report of the superintendent of insurance.

Chapter 90 amends the insurance law relative to co-operative fire insurance corporations transacting business upon the advance premium plan.

Chapter 97 amends the code of civil procedure as to the authentication of documents from foreign countries.

Chapter 98 amends the code in relation to applications for the appointment of a committee of the person and the estate of an incompetent person in a state institution.

Chapter 100 amends the banking law in relation to the investment of savings bank deposits.

Chapter 101 amends the banking law in relation to the general powers of banks.

Chapter 102 amends the banking law in relation to savings and loan associations.

Chapter 103 amends the same law in relation to the matured value of shares in savings and loan associations.

Chapter 104 amends the same law in relation to the powers of the superintendent of banks.

Chapter 121 is a revision and codification of the insanity law generally. Among other things it provides for the care and treatment of persons who voluntarily make a written application therefor, and whose mental condition is such as to render them competent to make such application.

Chapter 154 amends the law in relation to clerks in courts of record within the first and second judicial districts acting as referees or in other similar capacities and provides that they shall not be appointed referee, receiver, or commissioner.

Chapter 161 amends the law as to the National Guard and Naval Militia.

Chapter 168 amends the tenement house law as to requirements for flues or chimneys.

Chapter 169 deals with the subject of incorrigible children theretofore committed to charitable, reformatory or other institutions and provides for their transfer under certain circumstances to some other institution.

Chapter 175 amends the insurance law relative to the regulation and supervision of rate making associations.

Chapter 177 amends the pure food law of the state imposing additional duties upon the commission having this matter in charge.

Chapter 199 amends the public health law in relation to the practice of chiropody.

Chapter 204 amends the general corporation law in relation to service of summons in an action to dissolve a corporation.

Chapter 207 amends the criminal law in relation to misconduct touching petitions for nomination or election.

Chapter 211 amends the criminal law in relation to the circulation of false statements or rumors as to banking institutions.

Chapter 216 amends the domestic relations law in relation of the form and contents of a marriage license.

Chapter 217 amends the insurance law relative to proceedings against and in liquidation of delinquent insurance corporations.

Chapter 219 amends the labor law regulating the use of com-

pressed air in caissons, tunnels and other work and the hours of labor in such work, and makes other provisions in regard thereto.

Chapter 225 amends the insurance law in relation to rebates and discriminations.

Chapter 226 is an elaborate statute amending the act of 1891 to provide for rapid transit railways in cities of over 1,000,000 inhabitants.

Chapter 229 deals with the question of compensation of lawyers, regulating contingent fees to some extent.

Chapter 230 amends section 70 of the insurance law relating to incorporations.

Chapter 233 amends the law in relation to insurance corporations as to the investment of capital and surplus.

Chapter 237 amends the banking law in relation to the residence of trustees of savings banks.

Chapter 241 amends the domestic relations law as to the written consent by parents to the marriage of a minor; and the duties of a city or town clerk in this regard.

Chapter 249 amends the revenue law in relation to the exemption and reduction of assessment of lands which have been planted with trees for forestry purposes.

Chapter 262 amends the code of criminal procedure in relation to appeals to the Court of Appeals where the judgment is death, providing that no compensation shall be allowed to counsel on such an appeal in prosecuting the appeal, unless the appeal shall have been brought on for argument within the time prescribed by another section of the code; and also that where the judgment appealed from is death, it shall be the duty of the district attorney to expedite the appeal which shall take precedence of all other appellate business in his office, and if for any reason the appeal be not brought on for argument within six months from the time when taken, the district attorney shall forthwith communicate to the Governor a written statement of the reasons for the delay. Such efforts to throw a sop to Cerberus in the way of appeasing the insane clamor for speed in capital proceedings suggests the commentary of Edmund Burke that in matters of property where speed was vital there was under the law of England delay without limit, but that in matters of life where if a mistake was made it

was impossible to correct it, under the same law no delay whatever was admitted. There is a certain sort of callous disregard of life shown in capital proceedings in England today which seems to be a kind of survival of the savagery and brutality of their criminal law so well depicted by May, Charles Dickens and others and against which Romilly struggled so long in vain.

Chapter 266 amends the tax law in respect to the preparation of the assessment roll.

Chapter 267 amends the same law by providing that household furniture and personal effects to the value of a thousand dollars shall be exempt from taxation.

Chapter 277 amends the agricultural law relating to the sale and analysis of concentrated commercial feeding stuffs.

Chapter 283 amends the insanity law as to the composition of the retiring board having jurisdiction as to the retirement of hospital employes.

Chapter 286 amends the prison law by authorizing the parole board to issue to a prisoner under certain circumstances an absolute discharge from imprisonment.

Chapter 298 provides for issuing bonds to the amount of not exceeding \$50,000,000 for the purpose of constructing state and county highways. This act is to be voted on by the people at the general election during the present year.

Chapter 312 amends the penal law as to the waiver of immunity by a witness.

Chapter 318 is an elaborate conservation law in relation to fish and game, embracing some sixty pages.

Chapter 320 makes an appropriation of \$6,000,000 for the improvement of the Cayuga and Seneca canals.

Chapter 331 amends the labor law making it unlawful for the owner, proprietor, manager or other person in authority of any factory, mercantile establishment, mill or workshop to knowingly employ a female or permit a female to be employed therein within four weeks after she has given birth to a child.

Chapter 330 amends the labor law in relation to fire drills in factories by requiring such drills to be conducted at least once in every three months under the supervision of the local fire department.

Chapter 329 amends the labor law in relation to fire prevention in factories.

Chapter 332 amends the same law in relation to automatic sprinklers.

Chapter 340 is an act to amend the criminal law as to obtaining property or credit by use of a false statement.

Chapter 351 amends the corporation law as to corporations having shares of capital stock without nominal or par value.

Chapter 380 is an act to amend the code of civil procedure in relation to appeals. This provides that after hearing an appeal the appellate division of the Supreme Court or appellate term must give judgment without regard to technical errors or defects or to exceptions which do not affect the substantial rights of the parties.

Chapter 384 is an amendment to the law as to wills and provides that whenever any estate, real or personal, shall be devised or bequeathed to a child or other descendent of the testator or to a brother or sister of the testator, and such legatee or devisee shall die during the lifetime of the testator leaving a child or other descendant surviving such testator, such devise or legacy shall not lapse but shall pass to the surviving child or other descendant of the legatee or devisee.

Chapter 444 is a long act to amend the conservation law and relating to lands, forests and public parks.

Chapter 445 is an act to amend the public health law and provides under various conditions for sterilization of the feeble minded, epileptic, criminal and other defective inmates of the several state hospitals for the insane, state prisons, reformatories, charitable and other penal institutions.

Chapter 454 amends the tenement house law generally and at some length.

Chapter 502 provides for the establishment of a state reformatory for misdemeanants, and for their educational, industrial and moral instruction and training.

Chapter 534 is an act to amend the highway law in relation to the construction and improvement of highways at the joint expense of the county and town.

Chapter 539 is an act to amend the labor law in relation to the hours of labor of minors and women and provides that no child

under the age of 16 years shall be employed or permitted to work in any factory before eight o'clock in the morning or after five o'clock in the evening or for more than eight hours in one day or six days in one week. No male minor under the age of 18 years shall be employed or permitted to work in any factory for more than six days or 54 hours in any one week nor between the hours of twelve midnight and four o'clock in the morning. No female minor under the age of 21, and no woman shall be employed or permitted to work in any factory before six o'clock in the morning or after nine in the evening or more than six days or 54 hours in any one week. There are certain exceptions to these provisions.

RHODE ISLAND.

The legislature of this state at its recent session passed the following among other acts; the chapters being numbered continuously from the general laws as revised in 1909:

Chapter 769 seems to be a general revision of the tax and revenue laws of the state and provides for the appointment of a Board of Tax Commissioners, defines its duties, provides for a state tax upon corporations, the regulation of taxation and amends the law of the state upon these important subjects in very many particulars.

Chapter 777 amends the law as to the state probation officer having the custody of females.

Chapter 780 provides for the dissolution of corporations other than a bank, saving or trust company organized under the laws of Rhode Island under certain circumstances.

Chapter 784 amends the tax act just referred to in certain particulars.

Chapter 785 makes an appropriation for indexing the births, deaths and marriages of the state.

Chapter 795 creates and establishes a public utilities commission and prescribes its powers and duties and provides for the regulation and control of public utilities. It seems to be a very full and comprehensive act.

Chapter 797 provides for fire drills in the public and private schools of the state having more than 25 pupils.

Chapter 800 provides for the treatment of persons bitten by

dogs or other animals suspected of being afflicted with hydrophobia, at the public expense.

Chapter 803 is an act for the regulation and control of fraternal benefit societies. It is very long and seems to be a complete code on this subject.

Chapter 805 provides for the state registration of trained nurses.

Chapter 806 provides for the relief of honorably discharged and dependent soldiers, sailors and marines who served in the Army or Navy of the United States during the war with Spain.

Chapter 807 attempts to provide for the abatement of smoke in cities of 20,000 or more inhabitants.

Chapter 809 is an act to punish the making or using of false statements to obtain property or credit. Like most of the other acts on the subject it brings within its scope the making of false representations for the purpose of obtaining money, property or credit for the benefit of either the person making it or any other person, firm or corporation in which he is interested. For many years the acts of most all the states on this subject were insufficient to reach the case of a false representation made by an officer of a corporation for the benefit of the corporation.

Chapter 814 is an amendment of the factory inspection laws prohibiting the employment of persons under 21 as messengers for a telegraph, telephone or messenger company before five in the morning or after ten at night.

Chapter 816 authorizes the establishment of open air schools.

Chapter 819 provides for the election of Senators and Representatives by ballot in each town and city at town, representative, district, and voting district meetings.

Chapter 820 provides that no railroad corporation shall thereafter fix a name to a new station or change its present name until after approval by the town council.

Chapter 821 amends the law as to registering, numbering, use and speed of motor vehicles and licensing the operators thereof.

Chapter 825 provides for the creation and establishment of a board of control and supply and provides for the regulation and control of state institutions.

Chapter 826 is an act providing that banks shall not be liable to a depositor on payment of a forged check unless within a year

after the return of such negotiable instrument the depositor shall notify the bank that it is a forgery. Several of these statutes have already been noticed in other states.

Chapter 829 provides that when real estate is subject to a contingent remainder, executory devise, or power of appointment, the Superior Court may, upon application by any person who has an estate in possession in such real estate and, after notice, appoint one or more trustees and authorize him or them to sell and convey such estate or any part thereof in fee simple and that said trustee or trustees may in the discretion of the court execute a mortgage of said estate or any part thereof.

Chapter 831 is an employers' liability act which seems to be of usual form, it being to some extent optional with the employer whether he shall come under its provisions, but depriving him of familiar defenses if he does not.

Chapter 833 is an act in amendment of the act of 1909, providing for state homes and schools for neglected and dependent children.

Chapter 834 requires wood alcohol to be labelled and penalizes the selling of any article of food or drink or drug containing any wood alcohol.

Chapter 838 amends the law as to interest and usury.

Chapter 840 is an act to secure uniformity in the law of transfer of stock in corporations. This act was framed and recommended by the Conference of Commissioners on Uniform Legislation.

Chapter 841 amends and revises the law as to pharmacy.

Chapter 845 authorizes state aid in providing instruction in manual training or vocational industrial education.

Chapter 846 amends the law in respect of the construction, maintenance and repair of bridges.

Chapter 847 is an act in conventional form to regulate lobbying.

SOUTH CAROLINA.

The Code Commissioner of this state prefaces the acts of the last session of its legislature with the statement that there were 301 acts and joint resolutions passed by the General Assembly of which the Governor approved only 15; that several were passed

over his veto, but the vast majority became effective without his signature. No explanation is given of this rather extraordinary situation, and I do not attempt any.

Among the acts passed are the following:

No. 298. An act to amend an act to establish an industrial school for boys and provide for its government and maintenance.

No. 299. A liquor act.

No. 300. An act to amend the law establishing the insurance department of South Carolina and to provide for the conduct of the same.

No. 327. An act amending the law of the state so as to permit certain freight trains to be run on Sunday, and mail trains. Also trains for the transportation of passengers to and from religious services.

No. 328. Is an act as to interest limiting seven per cent as the rate unless stipulated in writing, when it may be eight, with a proviso that an insurance company requiring as a condition of a loan the borrower to insure his life or that of another or his property with such company and assign to the company the policy of insurance as security, and agree to pay premiums thereon, such premiums shall not be considered as interest.

No. 340. This act changes the closed season for woodcock.

No. 358. This act provides for the levy by city councils of such further annual taxation as may be necessary to pay the interest on outstanding bonds and create a necessary sinking fund and limits the annual tax to be levied to not exceeding one and a quarter per cent in cities containing over 5000 inhabitants and not over one per cent in towns containing between 1000 and 5000 inhabitants, of the assessed value thereof.

No. 373. Provides for the appropriation of moneys by county commissioners to be used in co-operation with state officials and the United States Department of Agriculture in live stock sanitation and the duties and powers of the state veterinarian in this connection are prescribed.

No. 385. This act exempts from taxation any city, county or school district bonds.

No. 391. This act provides for beneficiary, agricultural scholarships in the Clemson College.

No. 402. Prescribes the method of capital punishment in South Carolina, which is to be by electrocution within the walls of the state penitentiary at Columbia.

No. 403. Requires county officers required by law to give bonds to secure bond in some reliable surety company authorized to do business in the state.

No. 405. Provides that in cities of 5000 inhabitants and over no child under 14 shall be employed as a messenger for any telegraph, telephone or messenger company nor shall any minor child or person under 18 years of age be so employed before five o'clock in the morning or after 10 o'clock in the evening.

No. 406. This act creates the state warehouse commission and provides for operating a state warehouse system for storing cotton and other commodities.

No. 407. Is an act allowing fertilizer companies or firms dealing in commercial fertilizing materials to ship fertilizer in bulk and also providing for the collection of a fertilizer tax.

No. 408. Provides a lien for owners and operators of lumber mills and saw mills.

No. 409. Prohibits betting, pool selling and bookmaking, etc., and provides punishment for such offenses, and declares that the violation of any of the provisions of the first section of the act shall be deemed a common nuisance.

No. 411. Is an act relating to drainage, providing for the appointment by the County Board of Commissioners in any county of a Board of Drainage Commissioners, and for the creation of drainage districts.

No. 416. Provides that damages for negligence or unlawful operation of a motor vehicle shall be a lien upon such vehicle next in priority to the lien for state and county taxes.

No. 418. Relates to the call and payment of that portion of the state debt known as the Brown Consol Bonds and Stocks.

No. 419. Authorizes the executive of the State Board of Health to adopt, promulgate and enforce rules and regulations for the protection of the public health of the state.

No. 423. Provides for a state commission with authority to make and enforce rules and regulations to eradicate or prevent the introduction or dissemination of injurious insects and plant diseases.

No. 424. Requires employers who have the right to require a notice to quit from their operatives to give notice to them of shutting down.

No. 425. Provides that only citizens may vote at primary elections, although citizens of the United States who have been residents of South Carolina for one year with a bona fide intention of becoming citizens of that state may vote at such election.

No. 426. Establishes a state board of embalming, fixes its duties and provides for licensing emblamers.

No. 429. Enlarges the powers of the Probate Court with respect to the guardianship of minors.

No. 430. Provides that wills shall be presented to the judge of the Probate Court for probate within thirty days after the death of the deceased, and that they shall become null and void as to subsequent purchasers for value without notice unless filed for probate within six years after the death of the maker.

No. 432. Provides for appeals from the orders or rulings of the insurance commissioner.

No. 439. Empowers circuit judges to suspend sentence upon such terms and conditions as in their judgment may be fit, provided that this authority shall not extend to cases of felony.

No. 441. Makes it a misdemeanor to commit frauds in relation to the violation of contracts for the leasing of land, for working on shares of crops, obtaining advances under such contracts with fraudulent intent to cheat the owner of such advances and regulates the method of procedure in such cases.

No. 444. Requires railroad companies to put cinder deflectors on the windows of passenger coaches.

No. 450. Provides that the State Bank Examiner at the request of the bank may assume control of such bank not to exceed 30 days.

No. 453. Provides for elections in any city of over 4000 inhabitants upon the question of adopting a commission form of government and for the adoption of that form of government in cities of over 10,000 and less than 25,000, and cities of over 50,000 and less than 100,000 inhabitants. As local legislation does not seem to be prohibited in this state, there is an immense volume of it and this act contains various special provisions and exemptions as to different counties and cities.

No. 454. Is a similar act as to cities and towns of not more than 10,000 inhabitants and not less than 4000 inhabitants.

No. 460. Is a rather singular act entitled "An act to prevent the establishment of ill-shaped counties," and provides that thereafter the General Assembly shall not establish any new county the greatest length of which shall be four times as long as the least central width thereof. Probably this act will not furnish any very serious obstacle to the creation of an ill-shaped county by any legislature that is disposed to create such a county.

No. 491. Provides for the regulation and supervision of investment companies.

VIRGINIA.

Among the acts adopted at the session of the legislature of Virginia during the current year were the following:

Chapter 4. Declaring that when persons holding public office shall be adjudged insane a vacancy shall exist in such offices.

Chapter 8. An act amending the act as to the transportation of the bodies of those who have died of contagious or infectious diseases.

Chapter 11. Provides that any person having a right of action at law for a tort may by motion obtain judgment for such tort after 30 days notice.

Chapter 21. This amends the law of Virginia as to corporations.

Chapter 27. Provides that in no action tried before a jury shall the trial judge give to the jury a peremptory instruction directing what verdict the jury shall render.

Chapter 28. Proposes an amendment to the constitution of Virginia as to special legislation for the organization of governments for cities and towns.

Chapter 32. Amends the incorporation act.

Chapter 40. Provides for resubmission to the people of proposed amendments to the constitution relating to commissioners of the revenue in cities and with relation to treasurers in cities.

Chapter 42. Relates to demurrers to evidence.

Chapter 43. Requires the licensing and adequate inspection of maternity hospitals.

Chapter 44. Amends the laws in respect to jurisdiction of

equity to remove clouds from title to real estate where the complainant is not in possession or has the equitable right to the legal title.

Chapter 47. Amends the corporation law of the state as to the decrease of outstanding capital stock.

Chapters 58 and 59. Relate to the employment of convicts.

Chapter 62. Amends the law in relation to sanitary arrangements in factories, workshops, etc.

Chapter 64. Regulates the proceedings against and the liquidation of delinquent insurance corporations.

Chapter 65. Requires a reserve for outstanding liability losses of insurance companies transacting the business of insuring against loss or damage resulting from accident or injury suffered by an employe or other person for which the person is liable.

Chapter 66. Provides that any person interested in real estate may file a petition in court for the purpose of having ascertained delinquent taxes due upon such real estate, and final judgment entered therein of the amount of taxes due, and that upon the payment of such sum, the land shall be clear of any such tax lien.

Chapter 71. Is an act to prevent deception in the sale of ice cream and to establish standards for the same, defining condensed milk and providing for its sale.

Chapter 74. Provides for a special proceeding to authorize the ascertainment and designation of the boundary line of real estate.

Chapter 75. Is an act to facilitate the development of the resources of the state by providing ways of ingress and egress for mining, manufacturing and timber cutting and to authorize proper passways, tram-roads, haul roads and other means of transportation over the lands of others.

Chapter 76. Is an act to prohibit unauthorized hypnosis.

Chapter 78. Regulates policies insuring against accidental bodily injury or disease.

Chapter 95. Amends the law as to assessment of taxes.

Chapter 97. Confers upon councils of cities having more than 60,000 inhabitants and cities within five miles thereof the power to acquire by purchase, condemnation, lease or otherwise the property in whole or in part of any private or public service cor-

poration operating a water works system or chartered for that purpose and providing for condemnation proceedings in regard thereto.

Chapter 105. Provides a method by which railroad companies in which the state owns an interest may relieve itself from its obligations thus arising and of all regulations not clearly applicable to all railroads.

Chapter 106. Amends an act to secure to operatives and laborers in various industries and manufactories the payment of wages at regular intervals and in lawful money.

Chapter 110. Provides for the sale of real estate where there is an estate limited by way of remainder either mediately or immediately to the heirs, heirs of the body or issue of the first taker by a proceeding in the appropriate court.

Chapter 130. Makes it a misdemeanor to borrow money from sales tobacco warehousemen upon a written promise to sell to them any tobacco, and to fail thereafter to comply with the conditions of such written promise.

Chapter 139. Relates to the assessment for local taxation of the rolling stock of railroad corporations.

Chapter 144. Deals with the state debt to some extent.

Chapter 153. Is an act to amend an act of the General Assembly constituting a united agricultural board to co-ordinate the Virginia College of Agriculture and Polytechnic Institute and the Virginia Agricultural Experiment Station, the Commissioner of said Board of Agriculture and the State Board of Education in co-operation with the United States Department of Agriculture for the betterment of agricultural, experimental and demonstration work. This is a very important subject and the extent of the work being done in that way throughout the country in connection with the work of the General Education Board, a wonderful monument to the sagacity and philanthropy of Mr. Rockefeller, is but little appreciated or understood by our people.

Chapter 157. Is an act to provide for the designation by cities and towns of segregation districts for the residence of white and colored persons.

Chapter 158. Is an act to provide for the examination and testing of dairy cattle for the purpose of controlling tuberculosis.

Chapter 155. Is an elaborate drainage act.

Chapter 160. Relates to the method of ascertaining damages in favor of abutting owners where a city or town causes injury to property by reason of a change of grade of any street, alley or other public place.

Chapter 167. Is an act to consolidate into one act all acts relating to Confederate pensions.

Chapter 169. Amends the act as to condemnation.

Chapter 170. Amends an act applicable in cities of 40,000 and over by which a police magistrate or judge may commit an alleged drunkard and vagrant charged with failing to support his wife and children to a probation officer.

Chapter 173. Is an act amending the general banking laws of the State.

Chapter 174. Relates to inspection and control of the sale of stock and poultry foods and powders.

Chapter 178. Establishes the department of mines and deals with coal mines and the safety of employes therein.

Chapter 181. Provides for the immediate registration of births and deaths and requires prompt returns to the Bureau of Vital Statistics and covers this entire subject with much detail.

Chapter 185. Requires all personal representatives of deceased persons to file in the clerk's office of the court in which they receive their appointment at the time it is made, a list containing the names so far as possible, the ages and addresses of the heirs of each person of whose estate they are so appointed.

Chapter 192. Validates conveyances made by corporations as therein specified.

Chapter 196. Establishes a feeble-minded colony on the farm of the Virginia State Epileptic Colony and provides for the government of the same.

Chapter 206. Relates to the subject of regulating the sale and securing the purity of commercial fertilizers.

Chapter 214. Relates to railway and canal corporations and taxation of their property, whether organized under the laws of Virginia or any other state and doing business therein.

Chapter 225. Provides for the issuing of county bonds for permanent road or bridge improvements in the magisterial or road districts of the counties of the state.

Chapter 235. Prescribes the effect as evidence to be given to deeds executed permanent to decree and recorded prior to the year 1865, providing that where it appears in any action at law or suit in equity that such deed or other writing was duly made and recorded prior to 1865, and that the record or evidence of some parts thereof and the proceedings pursuant to which it was made have been lost or destroyed and cannot be produced, the deed or writing or a certified copy thereof, shall be prima facie evidence of the fact that the statutory or other provisions were duly complied with in the making of the deed as well as the power or authority of the officer who made it.

Chapter 237. Seems to be an act regulating the practice of medicine and surgery in Virginia and a codification of the law upon that subject.

Chapter 238. Provides that no case shall be heard nor decided in the Court of Appeals upon an imperfect or incompetent record. When the court is of the opinion that any record or part thereof, testimony or proceedings, has not been properly identified or certified, the court shall, in its discretion, order that this shall be done and when the defect shall be cured it shall proceed with the hearing upon the merits.

I am not certain that this act changes the law very materially as it exists generally.

Chapter 241. Is a liquor act providing for licenses, etc., and an amendment of former legislation on the subject.

Chapter 243. Amends and amplifies the law as to the Bureau of Insurance companies generally, dealing particularly with foreign insurance companies.

Chapter 248. Amends the act regulating the hours of labor in factories and manufacturing establishments by providing that no female and no child under 14 years of age shall work as an operative in any factory, workshop, "mercantile" or in any manufacturing establishment in the state more than ten hours in any one day of 24 hours. It seems rather pitiful to think of children under fourteen, particularly not knowing how much under they are, working for ten hours a day in factories, workshops or manufacturing establishments.

Chapter 263. Provides for the transfer of capital stock stand-

ing in the name of the deceased person domiciled out of the state having no personal representative qualified as such within the state.

Chapter 267. Makes the unauthorized use of automobiles or motor vehicles without the consent of the owner a misdemeanor.

Chapter 276. Prohibits the sale of seed cotton at night.

Chapter 280. Amends the code authorizing commissioners of the revenue to reduce the assessment of buildings when injured or destroyed.

Chapter 289. Is an act to regulate the sale of cider, other than pure juice of the apple.

Chapter 291. Amends the act of 1902 imposing upon railroad corporations liability for injury to their employes in certain cases.

Chapter 292. Provides for the use of copies of deeds, the originals of which have been lost, where such copies are certified by the general court at Frankfort, Kentucky, if the originals were there received.

Chapter 295. Deals with the employment of desperate convicts.

Chapter 299. Provides that where a deposit is made payable to two or more persons, or either of them, or to the survivor, the same may be paid to either of said persons, whether the others are living or not. Probably this does not change the common law, though some peculiar questions have arisen with reference to such deposits.

Chapter 305. Is an act to provide for the pension, maintenance and support of disabled firemen's associations in cities of a population of 100,000 or over.

Chapter 306. Amends the law in respect to the powers of boards of county supervisors.

Chapter 307. Provides for the holding of primary elections and for preventing and punishing corrupt practices in connection therewith. This act contemplates a primary for the nomination of United States Senators and state officers, members of the House of Representatives, state senators, members of the house of delegates and county and city officers, but does not extend to presidential electors.

Chapter 309. Is an act requiring the inspection and super-

vision of the State Board of Charities and Corrections as to dependent children placed in homes.

Chapter 310. Is a comprehensive act dealing with the militia of the state.

Chapter 320. Adds new sections to the code as to the regulation of state banks.

Chapter 321. Revises the law as to the admission of children to public schools.

Chapter 322. Amends the law as to the detention of minors under 17 years of age in places other than in jails or prisons.

Chapter 323. Amends the code providing for the recovery of judgment by motion after 15 days' notice on contracts to recover money.

Chapter 329. Is supplementary and amendatory of the Act of 1910 providing for pensioning of public school teachers.

Chapter 332. Is an act to provide for submission to the people of a proposed amendment to Section 117 of Article 8 of the Constitution of Virginia as to special legislation for the organization and government of cities and towns.

Chapter 333. Amends the act of February 26, 1910, requiring all water companies, heat, light and power companies and gas companies to pay certain taxes and furnish certain reports to the state corporation commission.

Chapter 335. Amends previous legislation as to state depositories and the bonds to be given as security on the deposit of public money.

Chapter 336. Amends the law under which cities and towns may vote on issuing bonds under clause B of Section 127 of the Constitution.

Chapter 344. Amends the law as to statements to be made to the State Corporation Commission by banks and joint stock companies and for the examination of banks.

WISCONSIN.

The legislature of Wisconsin met in special session in the spring of this year. I am advised by the very able member of our general council from that state that at that session no statutes of general interest were enacted.

NEW NATIONALISM.

ANNUAL ADDRESS BY
FRANK B. KELLOGG,
OF MINNESOTA.

Great movements in the advancement of civilization go in cycles. There are periods of stagnation of thought, and of moral and material development. There are apparent retrogressions when peoples seem to be sinking to obscurity, followed by great tides of advancement. It is a strange phenomenon, this rise and fall of nations, this growth and decay of civilizations.

We who live in one of those periods find it difficult to understand the resistless current of human events which today denotes a great evolutionary movement in world growth.

One thing, however, is plain to the student of government: This movement is not one of materialism alone. It is ethical, moral, idealistic. Sentiment sways with its mighty force nations, peoples, individuals. Men stake their fortunes, their happiness, their lives, for their ideals.

There is a world movement to liberal democracy. The individual is rising in the scale of importance. More and more he is participating in public affairs. This new idea, this new conception of government, is bursting the bonds of traditional forms and is sweeping away many of our cherished ideals. Its cause we know not. Its ultimate goal we but dimly see.

But the people of the civilized world are not going backward. Though there undoubtedly exist the greatest extremes of wealth and poverty, the average condition of the people of the western world is higher today than ever. There is a better standard of living, religion is more widely diffused, learning and average intelligence and understanding are upon a higher plane. We are not less moral, nor more degenerate physically. In a word, the common lot of man is better than in any previous period of the world's history.

What is it then that is today engaging the attention of men of all races? What is causing this world-wide agitation for a greater participation by the individual in the affairs of government? It is my purpose in this address to consider some of these questions and to note the changes which are taking place in our body politic. I shall try to trace the course of liberal democracy and see how it has found expression in laws and political creeds. I shall endeavor to show that this general movement includes legislation tending to greater control of industrial and commercial institutions, regulations affecting labor and the moral and physical well-being of the people, and that all of these changes, though at times difficult to understand, are evidences of the struggle of humanity towards a higher civilization.

In the twenty centuries which have comprised the growth of the western world there have been many periods marked by great advancement in government and the betterment of the mass of the people. Individual advancement, moral and intellectual growth, as well as material prosperity, necessarily go hand in hand with government. They are bound up inseparably in these movements.

Through the labyrinth of national history it is possible here and there to pick out periods of agitation when nations seem to be controlled and swayed by moral issues, reforms in government, and advancement in standards of individual life—such periods as the Reformation, during which the art of printing tended to the spread of intelligent freedom of thought and to shake the foundations of absolutism; and the Revolution in England in 1642, finally ending in 1688 by the establishment of the principle of the supremacy of the people, through its parliament, over the power of the throne. This forever fixed the right of the people to rule. Yet it was still the rule of the privileged classes. Two centuries were to elapse before the franchise was to be extended to a large class of intelligent Englishmen. England was first to see slipping from her power her great western possessions, and witness the formation of a new republic. She was to see the flame of revolution light the skies of continental Europe, and to hear the thunders of the Napoleonic wars, before real democracy was

to be established. She has yet to solve one of the greatest problems of her existence. She has yet to found a new nationalism, to break up the large landed estates, founded in privilege and plunder, and to lift her starving millions from degradation and despair.

The American and French revolutions undoubtedly mark the greatest steps in government and advancement of peoples in material and intellectual growth. The close of the eighteenth and the beginning of the nineteenth centuries was one of the historic periods of western civilization. Little did the statesmen of that period realize what the new century was to bring forth. It was to see despotic governments disappear from western Europe and constitutional monarchies and republics take their places. It was to see the enfranchisement of the people. It was to feel their strength and hear their voice in the councils of nations. It was to see education more widely diffused. It was to see serfdom and slavery disappear, and labor lifted to a higher plane. It was to see the birth of a new republic, which was to shed its light from the western skies. This was a new conception in constitutional government. In the wisdom of its laws and institutions and in the benevolence of its government it was to exert benign influence upon the world's progress.

But, great as was this period in world-growth, the present movement to a more liberal democracy affects the whole civilized world. In England, the manhood franchise insured the supremacy of the Liberal party, which has passed the minimum wage law and is now further struggling to better the conditions of labor. It is breaking up the old landed estates into freehold farms to constitute homes for the people. It has curtailed the power of the House of Lords. It is ending landlordism in Ireland by the enactment of agrarian laws and taking steps looking to self-government in local affairs.

But this movement is not confined to England. In France, Germany and Italy there is an awakening to higher ideals and a general movement to raise the standard of men and women. In Portugal the abolition of the kingdom and the establishment of a republic were accomplished by an almost bloodless revolution; and in Spain the reforms now being enacted, with the

agitation for a more democratic rule, bid fair to result in the establishment of a republican form of government.

Looking beyond modern Europe we find the leaven of democracy spreading to the ancient land of the Ptolemies, where for centuries have slumbered on, a people rich only in the memories of a dead and gone civilization. In Russia the Monarchy is making concessions to the people, and, to a limited degree, they are beginning, through the election of members of the Duma, to participate in the affairs of the state.

The most remarkable demonstration of this world awakening is in the ancient empire of China, where, through the changeless centuries, the generations have come and gone, apparently making little progress in the science of government or the betterment of their material condition. Stationary, she has stood and seen the rise and fall of the empires to the west. She saw the birth, the growth, and the decay of Greece. She saw the beginning of the great Roman Empire—saw it reach out and encompass the western world—and disappear. She saw the medieval shadows gather where once shone the lights of her civilization, and from the ruins saw rising the great nations of the West. She saw the birth of this republic, and still a hundred years elapsed before her awakening.

Let us not mistake the times. There is today a great movement going on in this country, and it is well for us to understand its cause, that we may as lawyers and citizens meet the responsibilities of our times.

During the last century the countries of western Europe obtained constitutional government to a very great degree, and their people have grown and developed according to their varying circumstances. The American republic is probably, thus far, the most successful of self-governed nations in history, but the peopling of this country and its growth have been under circumstances more favorable than those known to any other nation. Western Europe was already peopled before it was civilized. True, the races have intermingled and amalgamated, but the present races have occupied those countries to a large extent since the dawn of history.

Not so with the country now constituting this republic. It was peopled with but a few scattering members of an alien, savage race. Here was a continent practically uninhabited, rich in all natural gifts of soil and climate, ready for the growth of a new civilization. To it came the strong, vigorous, hardy races of western Europe. Their governments had been formed, their laws and customs had been moulded for their use, literature had developed, science and art were already known. They came to this land with its world of undeveloped wealth for their heritage, and for three hundred years we have been developing a country almost limitless in its resources. De Tocqueville, who visited this country more than seventy-five years ago, said, "This is the most favorable condition for the growth and maintenance of a republic, with the widest latitude of liberty." To a student of history this is evident. A people rich as a whole, where opportunity is open to each, where there are ample resources for development and growth, where there is no great individual wealth but a general equality—these are the most favorable conditions for the ideal republic.

Until within the last few years such was the condition of this country. We had great areas of rich unsettled land, forests and mineral wealth untouched. We had an educated, strong, vigorous people created by the amalgamation of European races. There was abundant room for individual initiative, growth and enterprise. The mechanic became the founder of great industries; the farmer boy became a railroad builder, pushing into the wilderness those enterprises which have made possible the rapid development of a new country; the clerk became a merchant and financier. Wherever he turned there was an open field to him who had the energy to seek the rewards of industry and enterprise. In the East, if the cities, the factories and the farms became overcrowded, one had but to move westward, where there was new wealth to be had, where enterprise had a boundless horizon.

Under such conditions the economic philosophy of *laissez faire* was the most suitable for the development and growth of individual man. It was a state of society where the least restraint and the greatest individual liberty, with unlimited field for competi-

tion, produced the highest order of civilization and the greatest wealth. But we have begun to reach the limit. The tide of immigration has reached the Pacific, beyond which lies an overcrowded and ancient civilization. The rich lands have been taken up and converted into private ownership; the forests have been largely consumed or have gone into the hands of a few wealthy corporations; the mines have been developed; manufacturing and distribution have been combined in large corporations; enormous wealth has accumulated in the hands of a few. The centers of industry are filling up. The grinding forces of individual competition are beginning to have their effect. The increased cost of the necessities of life that comes with the concentration of people and of wealth is beginning to spread want and poverty. The attractions of city life, with the opportunities which have been offered for accumulating wealth, have decreased the rural population so that production has not kept pace with the growth of the nation. The old conditions of individual proprietorship and independence have largely disappeared. Labor is principally employed by great corporations. Landlordism is increasing among the farming community. This has been going on with the gradual education and betterment of the intellectual and moral condition of the men who labor on the farms and in the shops. They are being taught the lesson of self-government.

We are therefore confronted with new problems, and while the doctrine of *laissez faire* was undoubtedly the most beneficial for a growing country under the conditions which existed, it is fast passing away and is being superseded by paternal legislation. We are now confronted with many of the problems with which some of the older countries have been struggling for years. This condition has produced in this country a demand for a more direct individual participation in the affairs of government and for legislation controlling capital, industry, and conditions of labor, and legislation affecting the moral and intellectual well-being of the people and fostering individual enterprise. To the lawyer, or the individual deep-rooted in precedent, these changes are so out of harmony with his ideas as to lead him to believe that we are abandoning our constitutional safeguards and endangering

the fabric of government. While, on the other hand, to the extreme radical, these provisions seem inadequate.

I am an optimist. I have great faith in the intelligence and believe in the high destiny of our people. I recognize the wisdom of our constitutional representative democracy, and I believe the best way to preserve it is to welcome these changes and meet these problems, and that the surest way to destroy our form of government and the safeguards of our constitutional liberty is to blindly oppose all innovation. These movements are not the work of demagogues, nor flotsam and jetsam upon the tides of human history. They are deep-seated. They spring from the great mass of the people. They are movements of the public conscience, and never have been and never will be checked or stopped.

Let us now consider for a few moments these great movements which are taking place in our government and laws. The first is the wide-spread demand for the individual, direct participation in the affairs of government. This is evidenced by the primary law, by the proposed constitutional amendment to elect United States Senators by direct vote of the people, by the initiative, the referendum, and the recall. I do not believe that these institutions are a complete remedy for all the ills that human depravity inflicts upon a people, or for all the wrongs in government or in our industrial and commercial conditions; nor on the other hand, do I believe them to be the mere impractical theories of socialists and dreamers. The Australian ballot, the primary law, the initiative, the referendum, the provision looking to the election of senators by the people, and the recall, are doubtless partly the result of abuses in government, national, state and municipal, and partly the natural growth and desire of the individual to participate more in public affairs as the result of a wider and more liberal education. This growth has been going on for centuries. It has been most marked with us during the last ten years. But in our country we have been largely taken up by the pursuit of wealth. Boundless fields for our enterprise have been open to us. During this time, however, we have been educating the people. We have been preparing them for these changes, and there is no condition of society more adequate to individual

development than that of the widest and most liberal democracy. The direct vote in the primary is an evidence of this growth. The American people have made up their minds to try this system. It has its defects. All forms of government have. It has perhaps not met all the high expectations of its advocates, but I believe it has done much more good than harm. It has remedied some of the evils of corrupt politics and removed some of the abuses of conventions and caucuses, but its chief value is as a means of education. It brings the government nearer to the people. It removes suspicion and distrust, and tends to publicity. The principal argument against it is the multiplicity of elections, the want of deliberation in selecting candidates for office, and the opportunities it gives for self-seeking demagogues. These defects can be remedied to some extent by making the direct primary applicable only to the principal officials, of whom the people should have a more intimate knowledge, and by increasing their duties and responsibilities. But it is not a fundamental change in our government. It is simply a means of extending the principle of our elective system into a wider field, and tends to enlarge the knowledge and political activity of the individual. It can only be made effective and wise by educating the citizen to a higher sense of responsibility and a wider knowledge in the affairs of the state. Discontent with present conditions and agitation go with human progress. The primary is a safety-valve, the means whereby the people may obtain a more direct expression of their wishes. It is better than repressing these forces of society, which might ultimately result in dangerous innovations.

The initiative and the referendum are a part of the same general movement, in some respects of much less wisdom. The referendum, of course, is the means by which we have always amended our constitutions. Under certain circumstances, I can see no objection to the people initiating these amendments, if surrounded by reasonable safeguards so as to prevent sudden and unwise changes in the fundamental law of the state. Such an instance might be where a legislature whose duty it is to initiate amendments, refuses to submit a constitutional amendment to the vote

of the people, and where the action of a sufficient percentage of the electors throughout the state evidences a widespread demand for such an amendment. We all know that the process by which the constitutions of some of the states can be amended is cumbersome, and so difficult as to be a stumbling-block in the way of beneficial, liberal legislation. But the initiative and referendum, as the ordinary means of legislation, involve a fundamental change in our system of government, one that should not be lightly adopted. In a great country like ours, the adoption of all laws by this system would be cumbersome and impracticable. In smaller communities, where there is not such a diversity and complexity of interests, social and industrial conditions, it has worked beneficially. But we have vast diversified interests, such as our financial institutions, industrial corporations and great railway lines, difficult problems of governing our cities, the equal or greater problems growing out of our foreign commerce and agricultural communities, the delicate relations between state and federal government, and to apply the initiative and referendum in the framing of such laws would tend to more complexity and instability in government. Laws which require careful consideration, the examination by committees, special knowledge of lawyers and students of economy, cannot be drawn and passed in this way. This duty must be delegated to representatives responsive to the direct will of the people who may devote the time necessary for such work. This generally tends to give men the training necessary for legislative duties. It also tends to wisdom and stability of law. Nothing is more dangerous to the people than uncertainty and changeableness in the laws. The citizen, busy with his affairs, even the lawyer and the publicist, cannot devote the time necessary to the study of all the laws which would have to be submitted to the people under this system of legislation. It is not, however, impracticable to use the initiative and referendum to a certain degree as a check upon legislative power. When a legislature refuses, after reasonable opportunity, to pass a law demanded by general public sentiment, it is entirely reasonable for some concrete proposition thus to be submitted to the people. This gives the people the advantage of the consideration of such

a law by the legislature and its committees, and the advantage of public discussion and consideration, before a resort is had to the initiative for the purpose of enacting the same. It is also entirely reasonable to use the referendum to a limited extent in local municipal affairs, especially in the grant of franchises and privileges.

There may be circumstances where the recall of officials may be applied with advantage to the commonwealth; but where we have short elective terms it is my opinion that the wiser provision is for removal of an officer for misconduct in office only after an opportunity to be heard. In any event, care should be taken not to apply the recall to the judiciary, for it would be destructive of the independence of that branch of the government. The integrity of our system of government can only be preserved by an impartial and independent judiciary. The judges should, so far as possible, be removed from the influence of the other two branches of the government. In a constitutional government human ingenuity has never evolved a scheme for preserving limitations upon power except through some impartial tribunal.

I am not by this advocating the abolition of representative government. I am a firm believer in the wisdom of delegating to representatives those duties which ages of experience have shown can best be performed in this manner. It tends to a more scientific investigation in administrative and legislative matters, and to training the citizen to the high stations in civic life. Do not take from the American youth the hope of honorable advancement and great accomplishments in official life; but, on the other hand, where the people are educated for self-government, give them the widest field of opportunity, maintaining always those constitutional guaranties necessary for the preservation of their independence and personal liberties.

This movement towards a higher education and more liberal democracy has undoubtedly been largely caused by a general public demand for legislation and control in our industrial life. This is a branch of New Nationalism to which the public is now giving great attention. It is comparatively new in our country. It has been tried to a greater degree in the older civilizations. But

all over the world the movement at the present time is towards more paternal legislation, greater control of the forces of industry and wealth, and legislation looking to the betterment of the conditions of the masses of the people. Such legislation is bound to come by reason of those irresistible forces of competitive life in the struggle for human existence. We can not give free rein to human desires and passions, or to the powers of wealth, without endangering the moral and physical condition of the great majority of the people. Such legislation is therefore bound to come. Shall we nationalize it? Shall we make it uniform? Shall it be the movement of the whole people? Shall we guide it into wise channels? Or shall we blindly oppose it, throw obstacles in the way, let it be sectional, and ineffectual?

Although this legislation with us is of comparatively modern date, still we have had considerable experience and have made great advancement along this line. It is a rule of economic law that when an instrumentality becomes necessary to the life of a people, it must be regulated for the benefit of the greatest number, so that all may enjoy it with equal right. Such was the condition when transportation became the foundation of all our industrial life. We saw the evils of unregulated transportation facilities. We passed laws which have been of inestimable benefit to the people at large, and we are administering them with reasonable wisdom. We are learning from year to year how best to regulate the transportation facilities of the country without injury to capital or labor, and while some injury has been done, in the scale of human good and evil the good so far outweighs the evil as to encourage us to continue the regulation.

The control of railways first took the form of laws passed by the various states, principally affecting transportation rates. At first many lawyers opposed such regulation as an exercise of unconstitutional power. It was denounced by them and by many of the prominent business men of the country, as confiscatory, destructive of personal and property rights, and an unwarranted interference with private affairs; but the courts, keeping pace with the new conditions, sustained this power. It subsequently became evident that state regulation was entirely inadequate.

The commerce of the country was principally interstate and international. After an elaborate and careful investigation Congress passed the Interstate Commerce Act, which has been enlarged and extended from that day to the present time. Following the great master mind of American jurisprudence, the Supreme Court of the United States sustained this power which was absolutely necessary to a nation-wide regulation. It is a matter of congratulation that Chief Justice Marshall, in writing the early opinions construing the Constitution of the United States, saw with prophetic vision beyond anyone of his time. He saw a commerce between the states growing to vast proportions until it should become the very life blood of a great commercial nation. He saw, as to that commerce in this country, one nation—the products of every state transported and consumed in all parts of the country and flowing in streams to foreign lands.

Without any stretch of this constitutional power, it is my opinion that the time is coming when the regulation of these transportation lines will of necessity be exclusively in the hands of the federal government. This construction, which confirmed in Congress the power to regulate instrumentalities of commerce, was the foundation stone for legislation for the benefit of labor, such as the Safety Appliance Act, the act regulating hours and conditions of labor upon railways, the Employers' Liability Act regulating the recovery of injuries on account of negligence, and various other laws for the benefit of labor.

But the people did not stop here. As our railways increased and the centers of industry filled up, and labor became specialized, it became evident that our system of compensating injured employees was crude and unscientific, tended to litigation, and was inadequate to compensate the employee. On account of our dual system of government and constitutional restrictions, it was more difficult to provide for workmen's compensation than in some foreign countries. Various of the states, however, have secured workmen's compensation acts, and these laws have been sustained in very able decisions by the majority of the courts where the questions have been raised. But as to the transportation lines, their employees were principally engaged in interstate

commerce, and in order to meet this question the President appointed a commission under authority of law to inquire into the subject and to frame a law to be presented to Congress. This very able commission gave exhaustive consideration to the subject, made a report, and framed an act which is now pending. In my opinion it is within the constitutional power of Congress, and is one of the most beneficent pieces of legislation conceived in modern times. This system has been tried in older countries and found of great value to both the employer and the employee. It insures to the workman compensation for injuries received, regardless of negligence of the employer, and makes this compensation one of the risks and expenses of the business. It protects the laborer in case of sickness, and secures to him and his family the independence necessary to the development of the best character of men and women. Nothing tends so much to degenerate a people as poverty, disease and hopeless labor. This legislation holds out to the workman the light of hope and tends to raise him in the scale of humanity.

Other legislation should follow, regulating hours and conditions of labor (especially as applied to women), regulating child labor, improving the sanitary conditions of the industrial centers, and encouraging a higher standard of industrial education. These are known as general welfare laws, and while, of course, some of these regulations are entirely within the province of the state, others are within the province of the federal government, and many of them must be of national character in order to be effective. The Safety Appliance Act, Employers' Liability Act, and others regulating hours and conditions of labor on railways, have been sustained by the Supreme Court of the United States as a proper exercise of power under the commerce clause. It is unnecessary for me to refer to the numerous decisions sustaining these laws and construing the Constitution. One of the most noted is the late decision in the Employers' Liability case, written by Mr. Justice Van Devanter and concurred in by all the members of that distinguished court. In the course of the opinion, the court said:

"This power over commerce among the states so conferred upon Congress, is complete in itself. It extends incidentally to every instrument and agent by which such commerce is carried on.

It may be exerted to its utmost extent over every part of such commerce, and is subject to no limitations save such as are prescribed in the Constitution. . . . The duties of common carriers with respect to the safety of their employees while both are engaged in commerce among the states, and the liability of the former for injuries sustained by the latter while both are so engaged, have a real or substantial relation to such commerce, and therefore are within the range of its power."

This is a reasonable, progressive construction of the Constitution, and I believe beyond question sustains the power to pass the Workmen's Compensation Act. In time Congress must go further. It must take up other enterprises whose employees are engaged in interstate commerce. But those problems are not easy of solution. They must be worked out slowly and with due regard to the rights of the employer as well as the employee. This act, if passed by Congress, will be a guide and an example which will have a beneficent effect in the various states when legislating on matters solely within their control.

The problems of an intensified, complex civilization like ours are numerous and difficult. When we look from a distance at the laws passed by the Liberal Parliament of England, such as the agrarian laws applying to Ireland, the small holdings act, tax laws and minimum wage laws of England, they seem dangerously paternalistic in their nature, but they undoubtedly meet a public demand and a necessity, and they may avert an evil as great as befell the empire which the Gracchi struggled to save by the agrarian laws of Rome. I do not advocate such agrarian and minimum wage laws for this country, and I hope the time may never come when it may be necessary to so interfere with the individual liberty of the people; but the best way to prevent them is to remove the causes and thereby avert the necessity for such legislation. We can best do this by encouraging rural life and improving industrial conditions. Certain it is that the wages of labor, except perhaps the higher grades of skilled labor, have not advanced as rapidly as the cost of living, and certain it is in this country that while fortunes have accumulated with startling rapidity, and the concentration of wealth has exceeded that of any age, in the centers of industry poverty is increasing, and

unless alleviated it will inevitably bring its train of evils, physical, moral and mental.

Two of the problems now confronting the American people are the control of wealth and its power and the encouragement and improvement of industrial conditions, both in agricultural and other enterprises. It is a startling fact that the rural population of this country, as compared with the total, has decreased in the last half-century from about seventy to thirty-five per cent. Farm life, the great reservoir from which we draw the vital forces of our nation, is becoming less attractive, leading to the over crowding of the cities and of other industries, and to the decrease of the products of the soil. The government must lend aid to the state in encouraging agricultural schools and improvement in country life, so as to make it more attractive as well as profitable. This to be sure, can be and should be very largely carried on by the states, but the federal government now has departments of agriculture and commerce and labor, better fitted to study the problems, ameliorate these conditions and foster this industry. The federal government should enlarge its activities and aid the states in this respect. The greatest field for improvement in this country, and the greatest opportunity for the youth, is in the scientific conservation and cultivation of the soil. History should admonish us that the decay of nations and degeneration of peoples have followed the decline of agriculture. We have but to look to the valley of the Euphrates, to Mauretania, to Mesopotamia, and to Italy during the middle ages to see the effect of such decay. Do you believe that we are surrounded by constitutional restrictions which prevent legislation by the central government along these lines? I do not. But, if we are, the march of progress will not be stopped in this way.

The other problem, which is probably today attracting more attention than any other, is that of control of the forces of wealth. Wealth always has been and always will be one of the greatest powers known, and its abuse one of the greatest evils. The invention of the corporation to amass capital is a thing of modern times. Individuals, taking advantage of the liberal incorporation laws of the various states, organized great corporations

and then combined these corporations into aggregations, which, in the end, by reason of their very size, had the power to control certain industries, and, if not stopped, would in a short time have controlled all industries. It is idle to talk of the restriction of individual liberty and the right to amass wealth. No individual ever has monopolized and controlled the industries of the country, or ever will do so except through the force of law. The span of human life is too short and uncertain, and individual wealth not great enough. It is the aggregation of the wealth of thousands of people and the perpetuation of this power through the instrumentality of the corporation which makes it dangerous. In this age of great industrial enterprises, rapid transportation and world competition, large aggregations of capital are undoubtedly necessary to the development of certain industries. To the extent that this is necessary, such aggregations should be permitted under strict governmental control, because they are the creations of government and have no natural rights. But when combination goes beyond what is necessary for economical production, transportation and commerce, and reaches out to control the industries of the country for the purpose of crushing out individual enterprise, amassing vast fortunes, exacting unreasonable profits, controlling the price of labor, or floating fictitious and watered stocks, it is harmful to the public and perilous to the nation that harbors it. The highest development of civilization will be attained by keeping open to individual enterprise the great avenues of commerce and industry, and by protecting labor in an independent and prosperous condition, so that every man with reasonable capital, ability, and industry may safely embark in some of the branches of industry with the hope of being something more than an employee of a corporation.

I deny absolutely that there is hope of human progress or permanency of advancement in closing the avenues of industry and energy to men and women. What is most desired is national wealth, not individual wealth. A people rich as a whole, where opportunity is open to each, where there is no inordinate individual wealth—these are the best conditions for the highest development of man.

Do you believe that the greatest good can come to a people by permitting a few corporations to control all of the industries of a nation; its transportation, its manufactures, its mining, and lastly, its agriculture? Does not every one know that the thing more than all others which makes a nation great is the opportunity offered every man to own his own home, his right to be a proprietor, to engage in every branch of industry, unencumbered and uncontrolled by inordinate wealth? When that day comes—if ever it shall—when these opportunities are not open to every one, and the only hope in the industrial world is to become an employee, that day will mark the beginning of the decay of this republic.

The American people became alarmed by the encroachments of these great combinations, and we reached the second stage of this development—that of the control. The states have no power over interstate commerce, and the vast commerce of the country being principally of this character, Congress undertook, by the Sherman Act, to break up and control harmful combinations and trusts. But the control of such great forces of industry is a matter of slow growth. The judgment of the American people gradually crystallized into a conviction that these laws must be enforced, and the result has proved the power of the people through the courts to destroy these combinations and trusts. But these corporations are owned by thousands of people. Their property can not be destroyed. To read some of the comments upon the Standard Oil and Tobacco cases one would think that it was the duty of the Supreme Court of the United States to confiscate their property. We should remember that Congress has not enacted any such statute (except as to property in course of transportation), and that while the power of Congress is unlimited in the regulation of interstate commerce, the Constitution protects from confiscation property which has been acquired under the authority of state laws. But it still leaves to Congress ample powers of regulation. Reasonable aggregations of capital are absolutely necessary to the business and development of the country, but I deny that unlimited aggregations of wealth are necessary to the industries, the advancement, or the happiness of

any people. Nevertheless, the control of the forces of industry and of the capital necessary to carry them on, is a very delicate and difficult task—on the one hand to preserve the independence, the freedom and the enterprise necessary to the growth and development of commerce, and on the other to repress those selfish motives for wealth and aggrandizement which in all times have animated men. It is not an argument against the justice of the enforcement of the Sherman Act that it has brought some uncertainty into the business world and that men do not know the exact limits of their legal rights or liabilities. In breaking up the control of combinations some injury must be done, and some agitation hurtful to the commonwealth will occur. I believe absolutely in the justice, in the soundness, and in the economic necessity of the decisions in the Standard Oil and Tobacco cases. They demonstrate the majesty of the law and the power of the people to control and break up the combinations which are harmful to the public, and which in the end would work national disaster, and they establish the power of the federal government to control corporations chartered by the states.

Today in the press and in social intercourse we often hear the question asked, "What has been accomplished by the Standard Oil decision?" Of course those interests which have always opposed such regulation are as far as possible filling the press with matter conveying the idea that the government has accomplished nothing. Furthermore, the people are inclined to be impatient and wish to see immediate and radical results; they are not willing to await the slow progress of development which must always attend these great movements. The Standard Oil and Tobacco decisions established the power of the federal government over combinations and corporations organized by state authority. Until after these decisions, that power was denied. This had to be settled before regulation could be made effective. Of what use would it be to pass more laws until the government demonstrated its power to enforce the laws already in existence? The judgment established the power of the government to enforce publicity in their affairs, which is the greatest protection against the oppressions and abuses of corporate aggression. It put an end

to all the long list of unfair methods of competition used for the purpose of crushing out and destroying competitors; it severed the holding company, separated the subsidiary corporations, and prohibited them from being thereafter managed as one harmonious whole, and thereby deprived them of the power to control the commerce of the country. To the smaller corporations and individuals engaged in the business it brought protection from the control and domination of the great combination, and today the independent manufacturer in the oil industry is enjoying the right to engage in business with a fair opportunity to compete. Had the government not taken any steps, where would this corporate control have ended? It might have resulted in absolute monopoly and domination of prices of all the necessities of life.

It is said that the stocks of the various Standard Oil companies have increased in value. What has that to do with the question? The fact is that prior to the dissolution of the Standard Oil combination the stocks of all its various subsidiary companies were held in the treasury of the Standard Oil Company of New Jersey, and never had a market value. There was no definite knowledge by the public of the amount of their assets. The government succeeded in disclosing their earnings and assets, and when in December last these stocks came upon the market, naturally investors began to find out their value, and they steadily increased in price.

But, in my judgment, in the evolution of this subject we must in time take other steps forward. The Sherman Act, enforced by the courts as it has been, is sufficient to put an end to the trusts and combinations in existence harmful to the public; but it seems to me that Congress may well take action which will not only prevent the recurrence of any such condition, but make clear the nature of corporations and the extent of combinations and aggregations which will be permitted to engage in interstate commerce. It should be made clear to the business interests of the country not only what combinations are illegal, but to what degree combination and concentration of capital may go, and just what limits, under the laws, should be placed upon them; and I believe it is the duty of Congress to lay down rules clearly defining the

rights and limitations upon the powers of state corporations engaged in interstate commerce. This is said in no spirit of criticism of the decisions of the courts. Those decisions were right and just and have gone to the extent that the court should go. It is no part of the duty of courts to lay down rules for future management of corporations and business. This is the duty of the legislature. The court acts upon a condition presented to it.

Congress can, through a system of license or incorporation, limit the size, capital, and manner of doing business of corporations engaged in interstate commerce. In my opinion, one has not to go beyond the rules laid down by Chief Justice Marshall expounding the power of the federal government under the Constitution to find warrant for the control of the great industrial and financial corporations of this country. I believe Congress has power, either by federal charter or federal license, to incorporate and control industrial combinations. It is inconceivable that the exclusive power to regulate commerce between the states should be in Congress and yet that Congress should be impotent to control one of the greatest instruments of commerce—to-wit, the corporation—and to control the production and transportation—the subjects of such commerce—or that the nation stands powerless before the state when the state wills to grant unlimited power to corporations to engage in commerce affecting all the states of the Union.

I am aware that eminent lawyers have grave doubts about the power of Congress to create corporations to engage in manufacture, but when manufacture is combined with the transportation and sale of products in the various states, why can not Congress incorporate such a company as well as incorporate a transportation company, or incorporate banks, to engage in other than governmental business? The opinions written by the Chief Justice in the case of *M'Culloch vs. Maryland* and *Osborn vs. United States Bank* sustain the power of the federal government to create corporations as proper instruments to carry out the express powers conferred upon Congress under the commerce clause. It was not claimed in those cases that there was any express power conferred upon Congress to incorporate

a national bank. The power to do that was inferred from the powers to levy and collect taxes, to borrow money, to regulate commerce, to declare and conduct war, and to raise and support armies and navies. It was held that a bank was a proper and requisite means of carrying these powers into execution under the provision of the Constitution authorizing Congress to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof." In construing the word "necessary," the Chief Justice said that it meant "needful, requisite, essential, conducive" to the carrying out of such powers. That being such a necessary and proper instrumentality, it was not an objection that the bank was authorized to engage in the business of "lending and dealing in money," which of itself was not one of the powers conferred by the Constitution. If it was true in the very beginning of the federal government that a corporation was a proper and necessary means of carrying on the business or executing the express powers of the federal government, all the more is it true at the present time. It is a well-known fact that the assembling of sufficient capital to carry on many of the enterprises pertaining to interstate commerce or the carrying of the mails, is more properly and conveniently done through the instrumentality of a corporation. Especially is this true as to railroads, but the principle is the same as to any association assembling capital for the purpose of carrying out any of the express powers conferred by the Constitution.

All authorities will agree that the power of Congress is plenary to provide restrictions and regulations under which it will permit corporations organized under the laws of the states to engage in interstate commerce. Congress may therefore provide the restrictions under which they shall so engage in commerce and issue licenses based upon such restrictions and regulations. These regulations may go to the amount of capital, to the percentage of commerce controlled, to the stockholding in other corporations, to attempts to monopolize, to unfair methods of competition; in short, they may prevent the very things which the unlimited cor-

porate laws of many of the states permit. And Congress has power, of course, to prevent those corporations from engaging in interstate commerce, unless they comply with these restrictions, and to take away their licenses if they violate them.

I listened with great interest to the very able address of the late President of the American Bar Association delivered a year ago upon this subject. He fully conceded the evils of monopoly and unlimited combination permitted by the state laws, but the remedy he advocated was that of uniform action by the various states. I believe that while, of course, the states can place any restrictions and limitations they see fit upon their own corporations, the hope of uniform action among the states is an idle dream impossible of accomplishment. It is perfectly hopeless to expect that the forty-eight states, with varying interests, conditions of industry and people, will ever agree to a uniform system of corporation laws which shall properly limit and control corporations engaged in interstate commerce. After twenty years of agitation of this subject a curious condition exists. In nearly every state of the Union there is a most drastic law against combinations, trusts and monopolies, and on the same statute books are spread laws permitting unlimited capitalization, stock ownership in other corporations, common directors, and all the instruments by which such corporations are given the power to go forth and monopolize the commerce of the various states, and under which the abuses incident to corporate management in this country have been permitted.

I am not an advocate of enlarging the power of the federal government over corporations or commerce. The perpetuity of the Union, protection of life and property, and the happiness of the American people are best subserved by the continuance and maintenance of the several powers of the federal and state governments within their proper spheres; but the commerce between the several states is solely within the province of the federal government, and it is reasonable, therefore, that Congress should by license not only provide what corporations should engage in that commerce, but protect them in that right. The questions arising out of the conflict between the state and federal

governments with respect to the regulation of the instrumentalities of commerce are the most important and perplexing we have to face. They can best be met and solved by a strict adherence to the constitutional landmarks which have been our guide for over one hundred years. Let not Congress encroach upon any of the domestic affairs of the states; on the other hand, let not the states interfere with the free flow of commerce among the states and with foreign nations. The state should be free to incorporate such companies as it pleases; it may even permit them to go beyond the borders of the state and engage in foreign commerce, but Congress can and should protect other states against these encroachments and say exactly what kind of corporations should so engage in that commerce. This construction is ample, protects each sovereign power, and it leaves no twilight zone between state and federal authority where may flourish uncontrolled the instruments of monopoly.

The limits of this address will not permit me to go into the details of a law for such regulations. In my opinion, Congress should provide a Corporation Commission in the Department of Commerce and Labor and vest it with power to supervise the great industrial corporations of this country. It is futile to attempt to control the industries of the country through criminal or civil actions prosecuted in the courts by the federal government. Our experience in the regulation of railways has demonstrated this; and the Interstate Commerce Commission, under its administrative power, has been the most potent force in regulating the great transportation industries of the country. The prosecutions were necessary to break up the combinations, to establish the power of the government, and to bring them within the control of its regulative measures. What is now needed is a system of federal incorporation, or federal license and control. Congress should pass a permissive incorporation act. It should not be compulsory, because it would be difficult for many corporations now organized under the state laws to change their organization; but, with such a statute, many corporations would avail themselves of the privilege and would thereby bring themselves completely within the

regulative power of Congress or of a commission created under authority of federal law. There should, however, be a compulsory license, which should be the alternative of federal incorporation; and large corporations engaged in interstate commerce, other than railways and purely transportation companies, should be required to take out a license containing substantially the same restrictions and provisions contained in a federal incorporation act. The object of such a license law should be that great aggregations of capital, which may threaten the independence of other industries, may control prices, transportation and the finances of the country, may crush out their competitors, and prevent individual enterprise, shall be reasonably regulated, so as to prevent injury to the public by such accumulations of wealth. I would make this applicable only to corporations whose size gives them the power so to injure and suppress individual enterprise. On the other hand, it would be perfectly idle to have every individual or every corporation engaged in interstate commerce subject to control, supervision and interference in their private affairs. Each individual business should not be subject to searching investigation by the government. The principle of that declaration which is fundamental to the Constitution, exempting the individual from unreasonable search and seizure should be preserved. It was born of the abuse of power and is necessary to the freedom of the people. But when a corporation seeks a legislative charter under which it may amass the great industries and wealth of the country, it should be subject to searching examination to see if those powers are abused, and should be subject to restrictions and control. The right to incorporate is purely a legislative grant. It is not one of the fundamental rights of the people. Being a special grant of power, it is entirely reasonable for the corporation to be subject to greater control and publicity in its affairs than are individuals.

Congress should, therefore, in my opinion, provide for such a system of federal license involving control by a corporation commission. Such license should be issued upon condition that the corporation should make reports and submit its affairs to examination, thereby insuring that healthy publicity necessary to large

corporations, especially where their securities are investments for the people; that its stocks and securities should be fully paid and represent actual capital, money or property; that it should not engage in unfair methods of competition for the purpose of crushing out its competitors and obtaining a monopoly, thereby maintaining a free opportunity to all to engage in commerce; that it should not carry on any business of banking, discounting bills, or loaning money, and should only use its surplus in the transaction of its business or the payment of dividends.

One of the greatest abuses of the concentration of wealth is the control of the circulating medium of the country. It is common knowledge that these trusts amass great sums of money as surplus—no one knows how large, but it may range anywhere from one to five hundred million dollars—and it is not unreasonable to suppose that if this amassing of the surplus derived from the great industries of the country is permitted to go on, a few corporations could control a surplus of available money and credits equal to the entire circulating medium of this country. This is easily accumulated in great financial centers. It is used by a few individuals who control these industries as they see fit, to loan on collateral, to advance to other institutions, to float railroad securities, industrial corporations, or to speculate in such securities. They can, if unrestricted, control the banking business, the circulating medium through which the people of the country must do business. Such concentration of wealth is dangerous. It is subject to abuse and should not be permitted. In no great industrial country of which I know, do interest rates vary from three to one hundred per cent in a few days. Men controlling such sums of money in surplus can, by loaning it out to brokers, bankers and financial institutions, or by calling these loans, unduly expand or contract the credits and circulating medium of the country. It would be very easy for a corporation with such a great surplus to create a panic or arbitrarily raise or depress the prices of securities. No such power should be in a corporation not subject to supervision. The circulating medium of the country on which every one must do business, should not be subject to the whim, caprice or greed of any set of men. By requiring these corpora-

tions to use their surplus only for their own business, the payment of dividends, or to deposit it in banks organized under national or state laws, the abusive use of such money could be prohibited. When deposited in banks it becomes a part of the circulating medium and credit for the transaction of the business of the country. No bank or set of banks would dare suddenly and without any warning call one or two hundred million dollars of loans in New York, and yet these industrial corporations may practically do this without any public supervision whatever. They should be prohibited from using their moneys through stock ownership for any of these purposes, and from controlling railway transportation lines not a part of their business, or financial institutions or other industries.

I would provide also that any corporation engaged in interstate commerce, after it has acquired a certain percentage of the business of the country (which can easily be determined by a corporation commission), should not thereafter further consolidate with its competitors without first having the approval of the corporation commission. There is no harm in allowing business corporations to grow by natural accretion and enterprise. Such is not the way the trusts have been created. It has been by combination of previously existing business, by stock ownership in competing concerns, many times brought about by ruinous trade wars which have driven independent institutions to dispose of their business. By such a federal license and supervision this could be prohibited and the freedom of trade and of individual enterprise could be maintained.

The government should not undertake to regulate prices of products. Such regulation is subject to many objections. In doing so it would eliminate the last vestige of competition, destroy all incentive to enterprise, and engage in paternalism to a degree which in my judgment would be dangerous for a republican government. It is only socialists and large corporations who advocate such a course—socialists because they believe in governments' engaging in business and equalizing all human conditions and enterprises; and great corporations because they prefer government control of prices to giving up their power and

dominion over the commerce itself. Their inevitable trend is toward control of all human enterprise through stock ownership—a kind of industrial oligarchy like the governmental oligarchy of Venice, and those Greek cities, the ruins of which only attest their former existence. For the government to regulate the prices of products would be to introduce into the competitive conditions of a great country all the agitations and selfishness of political parties. But more than that, it would prevent this country from legitimately competing for the commerce of the world. In all competition all the play and force of individual enterprise and ingenuity must be used. Let us not consider a system of government control of prices which, in my judgment, in the end would be subversive of those forces of competition necessary to the growth and development of a great people.

The only regulation of prices which in modern times has been successful is the system in Germany, where for the protection of the small trader and manufacturer agreements as to prices and output between them are permitted subject to governmental control. In other words, it is possible that the time may come when, in order to encourage the individual or the smaller corporation and to protect him against the larger aggregation, the government may permit such trader or manufacturer to agree in the first instance upon a scale of prices known as trade agreements, but subject to strict regulation and control by the government. In my judgment the wisest course to pursue at this time is to regulate the large corporations, prevent their abuse of power and interference with smaller industries, leaving open and free those competitive forces that ever have been and ever will be the impelling motives of civilization.

I am aware that this doctrine of governmental control of the forces of industry, this legislation looking to the betterment of labor conditions such as the workmen's compensation acts, and similar legislation, seems to some of my brethren at the Bar to be paternalism run mad, and an exercise of unconstitutional power. There have been lawyers who denounced the railroad legislation as unconstitutional, confiscatory, and destructive of personal rights. No advance in legislation bearing on economic

questions ever has been or ever will be taken except in the face of opposition of some lawyers as well as other members of society. It is probably wise that this should be the case, for these contending forces tend to modify the opinions of the most radical of each class. The influence of the extreme conservative modifies unwise progressive forces and tends to curb their vast designs. While there are many problems in this subject of governmental control that should be studied with care and enacted with caution, yet I do not believe there is anything to cause general alarm. I know that government is and should be the wisest institution which human ingenuity can invent for the regulation of society in which individual freedom and will shall be given the widest field of exercise consistent with the general good, and that government interference with business and private affairs should never be permitted as a mere speculative theory, but only as a public necessity. Government is not a stage on which to exhibit every passing show, nor is it an institution for the exploitation of every experiment that popular imagination may for the moment invent, but it is the province of government to restrain power, to control the forces which are dangerous to the general public, to protect the weak and the poor, and to encourage industry, education and morality. It is useless to restrain the individual power and ambition of men in government, and to leave open to free play the concentrated forces of wealth which have been in all ages one of the most potent powers known in civilization. There is nothing new in the general principles of this control. It is new nationalism only as the changing conditions of different ages call for new remedies. It is as old as government and society. The march of civilization and rapid transportation have diffused knowledge and changed the industrial and commercial conditions of the world, but the principles are the same. It was necessary to overthrow the feudal system by revolution or by law, in order to liberate and enfranchise the peasant. It was necessary to pass the agrarian laws of Rome in order to prevent the aristocracy from monopolizing the soil. It was necessary in modern times to compel the landlords in England and Ireland to sell their estates to small holders in order to equalize those conditions of

industry which are necessary to the growth of all peoples. It was necessary to prevent the governing powers from granting letters of monopoly in order that the people might equally engage in industry. It is just as necessary today in this country to regulate, control and curb the power of oligarchies of wealth as it was in the Middle Ages to curb the oligarchies in government. The political philosophy of *laissez faire* came into existence as a protest against and a counter revolution to the doctrine of absolutism in monarchical government. It has fulfilled its mission. In England, France and Germany and other European countries, it has been interposed as an objection to modern economic legislation necessary to the development of the people, but without avail. These problems must be met. No class of the community is so well qualified to aid in their solution as the lawyers. They will do it. I am aware that the lawyer is and should be a great conservative force in society. His training leads him to look for precedent, to follow the paths that others have made; but we should not carry our conservatism to the verge of the worship of antique ideals. We should not interpose it to retard legitimate progress. The Constitution is not a commandment of divine origin, everlasting and unchangeable. It is a living, breathing instrument drawn from the wisdom of the ages for the best government of a free, progressive people. It was intended to be applied to the changing conditions of society and the growth of the nation. It was the consummation of a high ideal in government, and should progress with our growth. Its construction should be guided by the general wisdom and broad common sense of the American people. No narrow retrogressive construction will meet these demands. When found in any respect not to meet the demands of our changed industrial conditions and modern life, it should be amended, of course only in response to a general demand and after careful consideration. The Constitution should be a declaration of principles and not a code. But there is nothing in these ideas which is new. A liberal construction of the Constitution in maintaining the supremacy of the national power, is still the general rule of the courts of this country. John Marshall gave the Constitution its most progressive and elastic construction. He

infused it with the breath of life, and the American people owe him a debt of gratitude which should enshrine his memory. In the enactment and enforcement of those laws called for by a progressive people, lawyers should be statesmen. They should give to the Constitution a reasonable and liberal construction, preserving always those personal and property rights which the wisdom of the ages has shown are necessary to the preservation of human liberty. If we do this we may maintain the high standard of the American Bar; we may maintain our influence in the councils of the state and nation, and we may aid in shaping progressive legislation and add immeasurably to the wisdom of government. But if we refuse, it will be done without us. I fear that the Bench and the Bar have already, to some extent, impaired their influence with the American people by unwise opposition to such legislation, and by a narrow construction of the Constitution which has tended to retard human progress. This, of course, is the exception. It is still true that in all the great movements in this country the lawyer is one of the leading forces in the community. He has filled the highest places of honor in legislation and administration with credit to himself and to his country. Let us so shape our conduct as to continue this influence, to maintain the high standard of a great and noble profession, and let new nationalism be demonstrated to be a wise and lasting doctrine of modern progressive civilization.

THE COURTS AND THE CONSTITUTION.

BY

SENATOR GEORGE SUTHERLAND,

OF UTAH.

It is becoming unfashionable to speak well of the constitution. It is no longer respectable to profess the ancient faith in the learning and integrity of the courts. There is abroad in the land a new political propaganda whose teaching suggests that the written constitution is binding only upon the minority and that its meaning may be ascertained more accurately by inspecting the casual contents of the ballot box than by invoking the trained and deliberate judgment of the Bench. The lessons of the Fathers and of History are being rapidly and contemptuously consigned to the limbo of ancient and discredited superstitions. The past is useful only in so far as it teaches us what to avoid. Doctrines and laws are right in proportion as they are novel. The desirability of the thing proposed is measured by the extent it differs from things as they are. Experiment is more highly regarded than demonstration and prediction is exalted above experience. Whosoever advocates old methods or old institutions, however well proven and long continued, is suspected of having engaged in the nefarious enterprise of working a confidence game upon a virtuous and progressive population.

There is a growing sentiment that the constitution has become obsolete and that its provisions stand in the way of reforms which are demanded by the people, a sentiment which, if it runs unchecked, must result in the serious impairment if not the disastrous overthrow of our institutions and their orderly and wisely progressive administration. Many of us do not believe that the constitution has been outworn; or that it has become a dead wall in the path of progress to be assaulted and overthrown before we can move on. Its principles are living forces, as vital now as

when they were adopted. It is not and never has been a wall, but a wide, free flowing stream within whose ample banks every needed and wholesome reform may be launched and carried.

The overshadowing and sinister menace to the American social structure today is the newly developed tendency in the direction of breaking down the organic consciousness of the people. There is a lessening of the old sense of loyalty to the integrating and balancing agencies of our government which we have ourselves created, and which are so essential to our orderly existence. If this tendency shall go forward increasingly, disaster must inevitably result, for an aggregation of individuals can no more escape the consequences which follow a violated law of their being than can the single individual. In both cases the penalty for excising the vital organs is death and dissolution. In the political body the vital organs are the legislative, the executive, and the judicial departments. The functions of government committed to these organic institutions can no more be carried on successfully by society *en masse* than the functions of the human body can be discharged inorganically.

The framers of the federal constitution were deeply learned in the science and history of government. They knew the advantages of democratic institutions, but they saw with clear vision the weaknesses and the dangers which must be guarded against if government by the people was to be just and enduring. They knew that a *pure* democracy was a beautiful but a barren and deceptive ideality which had never survived and in the nature of things could never survive the test of practical experience, since it constitutes an attempt to carry on the complex functions of the social organism without the necessary and appropriate organs. They realized that for the three millions of people of their day (as a *fortiori*, for the ninety millions of our day) to undertake by direct action the making of laws, the interpreting of laws, and the executing of laws would be to substitute for the orderly and despotic rule of the king the spasmodic and often no less despotic rule of the fluctuating majority. The voice of the people may be the voice of God, but neither God nor the people at all times speak through the lips of the major portion of the people. The

problem which faced the framers was that of devising a form of government by which the sober and deliberate will of the people might be effectuated without at the same time becoming the mere mechanical and helpless register of the passing whims and caprices and fleeting emotions of the constantly changing numerical majority.

By the constitution they, therefore, established a *representative republic*—a *self-limited* democracy as distinguished from an *unlimited* democracy. They provided for the three separate and distinct departments, conferring upon each its appropriate powers, and thereby denying to each any authority to invade the domain of the others. So delicate and yet so strong was the adjustment that the plan has operated with justice and efficiency for more than a century of unchallenged time.

The average citizen, except in periods of stress, has been scarcely aware of the existence of these three great governmental agencies. Until recent years it seems never to have occurred to him that direct participation on his part in the framing of laws, the recall of judges, or the revision of judicial decisions was a fundamental or valuable right of which he was being unjustly deprived. He has lived in peace under his own vine and fig tree in the secure and unmolested possession of his property, pursuing in his own way the enjoyment of life, liberty and happiness, subject to only such restraints as would enable others to do the same.

But all at once the call has gone forth for the people to take possession of the machinery of government and by direct action perform the difficult and complicated functions of making, construing and executing laws. The good faith of the people themselves in seeking these radical changes is not to be questioned, but we may justly doubt their wisdom in having lent a too ready ear to the professional demagogue whose strident voice has filled the land with his ill considered and impractical theories.

If the vast majority of mankind had not earnestly desired that their dealings with one another should be characterized by the principles of justice, organized society would never have emerged from savagery, and the persistent and upward march of civiliza-

tion toward better things would have long since ended in the final submersion of humanity in universal and permanent barbarism. The popular movements of the civilized races have always been characterized by sincerity of purpose though they have not always been attended by wisdom or by certainty of accomplishment. They have sometimes followed paths that ended in the thickets of error, but always the search has been for the *way* of righteousness; and holding fast to the things that have been proven and profiting by their mistakes, they have gone steadily onward to higher and still higher levels of development, advancing quite as much by the sturdy retention of old truths as by the discovery and application of new ones.

There can never be any real contention between those who advocate doing well and those who consciously advocate doing ill. In the constantly increasing complexity of our mutual relations, the task which in a multitude of forms continually confronts the people as a whole consists not so much in the doing of proven and accepted right as it does in the ascertainment of what is right. Under primitive conditions this problem was comparatively simple because all the social relations were simple, but modern society is so vast and so complex, that the sharp line which divides indisputable right from undoubted wrong has become relatively shortened, while beyond stretches the constantly lengthening and broadening zone of debatable territory. Within this zone there is much uncertainty and occasional confusion. We learn to distinguish what is wise and righteous from what is wrong and foolish by experience which compels our assent rather than by precept, which only advises our understanding. This experience in England has been preserved in the common law and the unwritten constitution. For many centuries the English people slowly advanced from primitive affairs and conditions to large and complicated affairs and conditions, solving the problems of each generation as the need arose, and by the light of experience moulding by evolutionary rather than by revolutionary methods the fundamental principles of law and government into appropriate form, until by slow degrees they have become embodied by tradition and inheritance in the very structure of their political institutions.

The United States, however, came into existence not by measured and gradual evolutionary development, but by the creative fiat of revolution. At the same time that our people declared a nation they were confronted with the necessity of framing a government. Having no governmental establishment as the result of historic growth they were obliged to make one by an act of construction. With no traditional constitution they were compelled to adopt their fundamental law by written compact, by which they agreed that not only their several governmental agencies—the executive, legislative, and judicial departments—should be governed, but themselves in their dealings with one another should be bound, thus entering into a solemn covenant of all the people which rightfully can no more be broken by the most powerful or numerous majority than by the meanest or weakest individual.

And since human judgment is fallible and written language capable of misunderstanding and perversion, it is manifest that in case of dispute between parties to the compact as to its scope and meaning, the determinative construction cannot wisely be left to even the majority of the parties, for that would be to make the majority the judge in its own case and put the minority at the mercy of a tribunal whose determination, however wrong, could not be reviewed and corrected, and however right, would not meet with the willing acquiescence of the minority. Hence the need of authoritative umpires in case of dispute and hence courts and judges.

The last decade of our history has witnessed the advent of certain amiable but restless gentlemen who have employed their talents in an effort to persuade themselves that the constitution stands in the way of social and moral advancement. They have made rather slight inquiry as to their probable destination, but they are anxious to be on the way and are impatient at the obstacles which they fancy that discredited document presents to an immediate start. They do not always seem to realize that while progress involves change, change does not always mean progress, and a disposition to treat the two terms as convertible has led to more or less intellectual confusion.

There stands in Paris at a point where several of the superb avenues of that city radiate like the points of a star, a stately and imposing structure called the Arch of Triumph. There are two methods by which the descent from the summit may be made, namely, by going slowly and laboriously down the stairway or utilizing the force of gravitation by jumping from the parapet. On a certain occasion a few years ago ten or a dozen men were standing at the top of that famous monument. All but one of them, being commonplace people, descended in the old fashioned, orthodox way, but that one, a gentleman of advanced views who had charmed the others by the brilliancy of his conversation and the boldness and originality of his speculations, came down by the alternative route, with the result that on the following afternoon he was laid away in the cemetery attached to the lunatic asylum from which he had escaped. The incident carries with it a lesson which I commend to the thoughtful consideration of the impatient reformers of these days, which is that to follow the constitutional stairway step by step may be a slow and tiresome process, but it at least assures us of a safe arrival.

The chief value of the written constitution, with its comprehensive system of checks and balances, is that it operates to prevent ill-considered and impulsive action—affords a period for sober reflection—but whenever the people have deliberately determined upon a step of real progress it will be found that the constitution as interpreted by the courts rarely presents an obstruction, and in that rare and occasional instance it will be far better to reach the desired result by the slow process of amendment than by the drastic and dangerous expedient of constitutional violation.

The spirit of impatience to which I have referred finds a most unfortunate manifestation in the intemperate and frequent denunciation of the action of the courts in declaring to be unconstitutional statutes which have been passed by Congress or state legislatures in response to popular demand. Notwithstanding the fact that the recognized judicial doctrine for more than a century has been that the courts in cases properly before them have power to decide whether an act of legislation is opposed

to the constitution, the contrary is still vigorously asserted by many people, and the exercise of the power denounced as judicial usurpation. To determine whether or not a statute is unconstitutional is not *per se* the exercise of judicial power any more than it is *per se* the exercise of legislative power, or executive power. The constitution by its terms is declared to be the "supreme law of the land," binding upon the several departments of the government and upon the people. When a legislative enactment irreconcilably conflicts with the constitution both cannot stand, and the statute as the inferior must yield to the constitution as the superior authority. Primarily, and it may be ultimately, as in the case of purely administrative laws which do not admit of justiciable controversies, the legislative body in passing the law determines the question that no such conflict exists. In any event there the matter will rest unless and until a case arises under the statute and is regularly presented to the court. When such a case is presented the court must of necessity decide, as between the statute which says one thing and the constitution which says another and wholly different thing, which of the two controls, and of course must declare, unless the imperious language of that instrument is to be disregarded, that the constitution, as the "supreme law of the land," necessarily prevails. The court declares the statute void, not because it has the substantive and independent power to pass upon the constitutionality of an act of Congress, for it has no such power, but because, as a necessary incident to the exercise of its undoubted power to decide a controversy properly before it, it must ascertain and determine the law, and by the express provision of the constitution which the court is sworn to uphold and bound to enforce, the constitution is the "supreme law of the land," which the statute is not unless "made in pursuance thereof."

Strictly speaking, a statute whose terms are contrary to the constitution is not an unconstitutional *law*, for it is no law, or as said by Mr. Justice Field, in the case of *Norton vs. Shelby County* (118 U. S. 425):

"An unconstitutional act is not law, it confers no right, it imposes no duties, it affords no protection, it creates no office;

it is, in legal contemplation, as inoperative as though it had never been passed."

When invoked in a case, courts simply disregard it as so much waste paper and enforce the constitution as the binding and controlling rule of action. As forcefully expressed by a learned judge:

"In exercising this high authority the judges claim no judicial supremacy; they are only the administrators of the public will. If an act of the legislature is held void, it is not because the judges have any control over the legislative power, but because the act is forbidden by the constitution, and because the will of the people, which is therein disclosed, is paramount to that of their representatives expressed in any law."

The constitution says that "no tax or duty shall be laid on articles exported from any state." If a statute be passed by Congress which, in a case regularly before the court, is challenged as having the effect of imposing an export tax, must not the court determine whether as a fact the statute has this effect, and, if it find in the affirmative, must it not so declare in order that the "supreme law of the land" may be maintained?

Again, "no person . . . shall be compelled in any criminal case to be a witness against himself." If a statute be passed contravening this provision and the prosecuting officer call the defendant to the stand, shall the court be powerless to say that the statute is void and thereby deprive the accused of his constitutional rights by compelling him to testify?

These are extreme illustrations, it is true, but if the courts may declare a statute void when opposed to these plain provisions, it is wholly illogical to deny its power to do likewise in any case where a constitutional provision is contravened, for the language of the constitution is that "the judicial power shall extend to *all* cases in law or equity *arising under this constitution*."

But it is urged that the constitution was made for a past generation, whose problems were wholly different from those which we are called upon to solve; that its provisions constantly stand in the way of a solution of these present-day problems in accordance with enlightened modern sentiment; that the will of the people is progressive but judicial interpretation is reactionary.

Utopian plans of reform are conceived which, because they cannot be put into instant operation, engender a spirit of almost intolerant impatience at the delay which must ensue from an attempt to clear the way by the constitutional method of amendment, and the search for a short cut to the desired end is strenuous and persistent.

It is proposed to make judges more responsive to popular opinion by hanging above their heads the threat of the recall. Mr. Roosevelt has suggested as another expedient the recall not of judges but of judicial decisions, which in effect would be to render a judicial decision by what practically amounts to a show of hands at the polls. The mischievous unwisdom of such a suggestion is so plainly apparent that its distinguished author does not seem to have pressed it with his customary vigor. I am not sure whether it is intended to confine this unique plebiscite to the construction of state constitutions, where it would be sufficiently injurious and subversive of justice and orderly judicial administration to justify its condemnation, but however this may be, other contrivances are from time to time advocated whereby the popular opinion as to the meaning of the constitution may be enforced upon the courts, both state and federal. Quite recently a senator from one of the Western states somewhat petulantly demanded to know why judges should not be responsive to the wishes of their constituents. The demand that the courts shall abdicate the power and duty and responsibility of determining and declaring what is the existing rule of law in the course of a judicial proceeding and automatically accept the impressions of the multitude, proceeds upon a complete misconception of the nature of the judicial office. Perhaps a sufficient reason why a judge should not follow the wishes of his constituents is that he has no constituents. A constituent necessarily implies an agent who acts for him, but the judge is not the recording agent of a constituency, he is an authoritative umpire between two contending parties. He administers, not the edicts of the people, but their laws and statutes. It is incumbent upon him to declare and enforce the rights of the few against the many precisely as he enforces the rights of the many against the few. He is not con-

cerned with anybody's wishes. He must regard the rights of one man as more sacred than the desires of all the world beside. The law and the evidence constitute the only compelling voice to which he must listen. The poised and balanced scales of justice and not the ballot box is the insignia of his office.

A special and peculiar reason, however, suggests itself why the Supreme Court of the United States should be regarded as the final arbiter as to the scope and meaning of the federal constitution. That instrument is not only in one aspect a law, and the supreme law, but is in every essential element, in another aspect, a contract between the parties who made it. These parties were the people of the several states and the political equality of the states of the union, however differing in wealth and population, is of the essence of the contract. Indeed the only provision of the constitution which is practically unamendable is that which recognizes this essential and enduring equality by providing that "no state, without its consent, shall be deprived of its equal suffrage in the Senate." This provision, in the opinion of Mr. Tucker, "proves the continual and perpetual independence of the state as a primordial political particle, in order to its own protection against the *vox majoritatis*, whether of population or of states." (I Tucker on the Constitution, 323.) It would seem to follow from this consideration that the people of each state, as against all the others, are entitled to have the provisions of the constitution accurately interpreted and strictly enforced according to their fair and reasonable intent, and their *right* to insist upon such interpretation and enforcement should and must outweigh the overwhelming and combined *desire* of the people of all the other states for a different interpretation or enforcement. I do not see how in this view it can be said to substantially differ from a private contract entered into by 48 persons of equal rank and right. In such case the united opinion of 47 of the parties would not conclude the one who dissented; he would have a right upon that question to the judgment of the court. In other words, while the constitution may be *amended* (save in the one particular noted) against the wish or protest of a minority by the concurrence of three-fourths of all the states, it may not be

construed by a majority of the people, however preponderating, so as to bind the minority, however small, but such binding construction, when the question arises in a justiciable controversy, can be made only by the court which in the contemplation of the constitution is the duly established official arbiter for that purpose. It would be of little avail to give each state equal suffrage in the Senate for its protection against the voice of the majority as expressed by Congress if its rights might be sacrificed to the preponderating but mistaken opinions of the majority as expressed by the country.

Hence those who suggest that the court must construe the constitution in accordance with the popular will, or that judicial interpretation should be subject to be overruled by popular opinion, however expressed or ascertained, are simply advocating a method by which the rights of some of the parties to a compact shall be subordinated to the will of the other parties who happen for the time being to preponderate in numbers. Such a condition would not only set the administration of the law afloat upon a sea of uncertainty, but would be contrary to the underlying principles of the constitutional compact, and in the end would subvert the liberties of the individuals, who in alternation may constitute the majority today and the minority tomorrow, a result which the whole genius and spirit of the constitutional compact were plainly intended to prevent.

The possibility of the abuse of sovereign power is an ever present danger under any form of government. If the sovereign power be vested in the king, everyone will agree that the necessity of guarding against this abuse is vital and imperative. Upon a superficial view we are apt to overlook this necessity where the sovereign power, as with us, is the people themselves. The people as a whole desire to do no wrong and their properly expressed will must for practical purposes be accepted as conclusively right; but that the will of the people as expressed from time to time through the decrees of the changing majority may be often unwise and sometimes unjust, no thoughtful student of history can doubt; and that this tendency of humanity, individually and in the mass, to err may be minimized without at the same time preventing the effective operation of the deliberately con-

ceived and declared will of the people, certain fundamental principles have been formally enumerated, which it is agreed in advance shall be beyond their own power to alter except in the way specifically nominated in the compact. There is no other way by which in a democracy the weak can be safeguarded from the occasional injustices of the strong, or the few effectually protected against the aggressions of the many. If these cardinal principles were not first of all fixed and determined and were not thereafter faithfully adhered to; if in the last analysis the most despised and unpopular individual might not have his case determined by the independent judgment of the court, uninfluenced by any consideration other than the learning and the conscience of the judge, standing with naked soul before God, this government, whatever it might be called, would be, not an immutable government of law, but a fickle and inconstant government of men.

While for the protection and enforcement of individual rights involved in particular controversies the judicial interpretations of the constitution must be accepted as conclusive, it does not follow that they are to be acquiesced in as unchangeable rules for the future. So long as human judgment is fallible judges will be fallible. As we have been many times told, the law is not an exact science and language is not a perfect medium for the transmission of thought. Judges have erred in the past and will err in the future. The remedy, however, is not to coerce by popular pressure a different ruling against the honest judgment of the court, or to overturn decisions by a vote of the majority. That would be to put the opinion of the most ignorant voter in a purely intellectual problem on a par with the wisest and best informed, since at the ballot box men are not measured, but counted. If the judges in office cannot be persuaded of their error by the general voice of reason, new judges will eventually take their places, and in the long run the popular view, if founded upon sound premises, will prevail. If not so founded it should not prevail. This slow and deliberate process, moreover, is in itself of incalculable value, since its tendency is to school the people to rely upon their sober and deliberate convictions rather than upon

their impulses, which, however honest, are more likely to reflect their desires than their judgment. While such a process may in rare and exceptional instances temporarily retard some wholesome reform, it cannot permanently stay its progress, and on the other hand, and vastly more important, it will preclude sudden and ill-considered determinations based upon transitory passion or emotion which, in the illuminating light of reflection and experience, must thereafter be abandoned as ill-advised or misconceived. Viewed in this way it will operate as a balance wheel to steady the public thought against inconsiderate and precipitate action. There can be no greater delusion than to suppose that by putting a ballot into the hands of a voter you thereby put wisdom into his head, unless it be to imagine that an aggregation of individuals can reach accurate conclusions by intellectual processes essentially differing from those which must be employed by the single individual.

Thoughtful observers of present-day conditions cannot fail to be impressed with the widespread feeling of political unrest which exists not only among our own people, but throughout the world. During the last fifty years we have gone ahead so fast, novel and intricate problems affecting our business, social and political activities have crowded upon us so rapidly, that their wise solution has sometimes lagged behind the evils which are inseparably connected with them. The cry has gone up that the representative agencies of the people have proven dishonest or ineffective, and there is a passionate demand that the people shall take over the direct management of their governmental affairs by means of the initiative, the referendum, and the recall. It is no part of my purpose to discuss these questions further than to point out that their desirability is to be tested by their practical efficiency rather than by their theoretical righteousness.

I suggest no doubt respecting either the right or the capacity of the people to govern themselves. In the United States they have always done that and they do so now. The question, however, is not whether the people shall govern, but it is by what method can they govern best: by their own direct action or through the governmental agencies which they have created. The

tripartite division of governmental powers laid down in the constitution is, I believe, essential to the preservation of the people's liberties. All history has demonstrated that where the power to make laws, to execute laws, and interpret laws is vested in the same individual or body, despotism inevitably results. The essence of law is that it shall operate generally. Special legislation is almost universally condemned, but where the power to make the law and the power to interpret the law is vested in the same hands, the inevitable tendency is to construe general rules so as to meet special exigencies, and the result in effect is that special and arbitrary enactments are made under the guise of interpretation.

The purpose of constitutions and laws being to standardize human conduct so as to produce uniformity of action, the constitution must be interpreted to mean the same thing under the same circumstances wholly irrespective of the persons who may be from time to time affected by such interpretation, and this can be properly accomplished only through instrumentalities which render judgment impersonally in accordance with general principles, and not with a view to the effect of such interpretation in special instances. Constitutional principles would be of little value unless they were permanent and predetermined. You cannot make impartial rules while the controversy is pending any more than you can prescribe rules for a game while it is in progress. If, however, the people who make the constitution also construe it, the tendency will be not to enforce by uniform interpretation the rule already laid down, but to vary the interpretation so as to meet exceptional cases and avoid special hardships, and the final result will be to entirely submerge the judicial function in the lawmaking function, and the rights of the citizen will be held, not under the definite and unchanging law of the land, but at the mercy of the transitory opinions of the changing majority.

Every provision of the constitution has a history and some a very long history, and no man can thoroughly understand or correctly apply the various provisions unless he knows the history. If the voters of the country are to assume the responsibility of construing the constitution in its application to controversies, how

many of them will take the time, or will have the time, to qualify themselves to act intelligently by a careful study and analysis of this history. The judges who preside over our courts are men who have done this. We should pause long and think well before we conclude that their judgments based upon ripe and exact learning can be safely overruled at the ballot box.

"The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government." (207 U. S., 148.) Courts of justice, it has been said, were constituted for the purpose of putting an end to private war, and if we, in our impatience, emasculate their authority or destroy the confidence in which their decisions are held, society will again become a prey to the disturbing and demoralizing effect of physical contention in the settlement of private disputes, and the right of the weak will inevitably go down before the might of the strong. Mr. Justice Miller, in the course of an address on the constitution, said:

"Let me urge upon my fellow countrymen, and especially upon the rising generation of them, to examine with careful scrutiny all new theories of government and of social life, and if they do not rest upon a foundation of veneration and respect for law as the bond of social existence, let them be distrusted as inimical to human happiness."

Somebody has said that it is the tendency of every opinion to become a law. Lawyers from the beginning have exerted a valuable influence in guiding public opinion along sane lines and in formulating it into coherent statutory expression. There has never been a time in all history when the need of the steadying influence of the legal profession is more imperative than it is today. There is a growing demand for progressive legislation which must either be met or its unwisdom demonstrated. However impractical in some of its aspects this demand may be, in others it contemplates results which will make for the social betterment, and in so far as this constitutes the purpose it cannot and should not be ignored. It must, however, be accomplished upon the sound and enduring basis of "private rights and distributive justice." The training of the lawyer and the judge is

such as to render him naturally conservative. Perhaps they are prone to follow precedent sometimes without sufficient regard to the reason which created it, for precedent after all is not a fixed pathway, it is only the opinion of a former traveler as to where the pathway should be. The due process of law clause of the constitution does not perpetuate for all time the rules of the common law. Indeed the common law itself recognizes its own flexibility and capacity for growth to meet new conditions by the controlling maxim, the reason for the law ceasing, the law itself ceases—*cessante ratione legis cessat ipsa lex*. It is not enough, therefore, to know the old precedent; we must also know the new conditions in order to determine whether the precedent any longer justly applies. If it does not, we must frankly recognize the fact and take up the duty of reforming the law, within the principles of the constitution, which, because they are broadly fundamental, are practically unchanging.

And this can be done and far better done through the existing representative law making agencies which are definitely responsible to the people, than by the uncertain and superficial methods that will obtain under any form of direct legislation, where the responsibility is so widely diffused that it cannot be placed definitely anywhere. "Progress" is a very illusive and a very much abused term. There is need of new definitions. To label a thing "progressive" is of itself suggestive of doubt, for progress should be self-evident. Progress consists in getting a better product, not in smashing the producing appliances and setting up inefficient substitutes. To destroy the governmental methods of modern civilization in order to revive the primitive methods of the tribe is not advancement but reaction. It is as though we should drive all the architects and builders into exile and construct wigwams for ourselves. I have never been able to convince myself that the possession of strength sufficient to lift a ballot is evidence of ability to make laws, or that because an individual possesses the skill requisite to enable him to insert a piece of paper into the aperture at the top of a ballot box it follows that he is wise enough to interpret constitutions in their application to the diverse and intricate cases which from time to time arise among our people.

Society advances not by trying to do everything for itself, but by utilizing the services of those best qualified to serve it, and by retaining those who serve it well and putting better men in the place of those who serve it ill. The modern functions of law making and law construing demand not only special training, but constant and deliberate concentration of effort, which the people acting as a whole have neither the time nor the persistent inclination to exert. One bullet skillfully aimed will more surely reach the bullseye than fifty fired at random. Instead of attempting the impossible task of direct government the people should employ their energies in the far simpler work of selecting capable representatives.

Before the government of the United States was established the struggle of man had been for his personal rights and liberties. To possess what he had in peace, to seek happiness, to enjoy life in his own way, to speak with a free tongue, to worship God in accordance with the dictates of his own conscience—these were the things he sought. But now the liberties of the individual have become firmly established; they are no longer in peril. The new struggle and the new aim is for his betterment. The problems which we must solve are not so much individualistic as they are communistic in character. The great and growing cause which must engage the thoughtful attention of statesmen is that of the social welfare. The demand of the people is for laws which will relieve men, women and children from unduly long and hurtful hours of labor, surround them with better sanitary conditions in their work, protect them from the dangers of rapidly moving machinery, insure them living wages for their work, compensate them or their families for injuries sustained or death resulting from their employment, prevent the monopolization of trade and opportunity, and generally promote social justice. The legislatures and Congress are responding to the demand, but the legislation is often enacted in haste and without a thorough understanding of the constitutional limitations upon the legislative power, and these laws after running the gauntlet of impersonal judicial scrutiny are sometimes set aside as unconstitutional.

Immediately one of two things happens. Either the constitution

is condemned as outworn and undemocratic, or the court is denounced as narrow and reactionary, when in fact the lawmaking body or those upon whose demand the lawmaking body acted are to blame. Take, for example, the first federal employers' liability law, the principle of which was entirely just and wholesome, but which was drawn in such comprehensive language that the Supreme Court was obliged to hold that Congress had undertaken to regulate not only interstate commerce, which was within its power, but to regulate intrastate commerce as well, a subject entirely beyond its competency. This defect being pointed out by the opinion of the Supreme Court, the law was redrawn in terms to apply only to interstate commerce, and as thus redrawn and enacted it was upheld by the unanimous opinion of the Supreme Court.

The New York Court of Appeals has been bitterly criticised for its decision in the Ives case, holding the so-called Workmen's Compensation Law of that state to be unconstitutional as violative of the due process clause of both the state and federal constitutions. Much that was said by that distinguished court as constituting reasons for the decision, in my judgment, was unsound, but the decision itself when properly understood is clearly defensible. The statute, so far as it need here be considered, attempted to make the employer liable to pay compensation in certain fixed amounts to the employee, or his surviving dependents, in case of his injury or death in the course of his employment, by accident resulting from inherent or trade risks, without reference to negligence, and in addition to this continued, at the election of the employee, the employers' common law liability for negligence. The effect of the statute was to make the employer when negligent liable to an action at law for such unlimited damages as a jury might assess, and then to superadd a liability for fixed compensation in cases where he was in no way at fault. Under such a law it would seem reasonably clear that there was a naked taking of the property of the employer for the benefit of the injured employee where there had been no dereliction of duty on the part of the employer, the entire burden being arbitrarily imposed upon the employer without any correlative compensating benefit.

But it does not follow that a valid workmen's compensation law, fair to both employer and employee, may not be drafted. The Senate of the United States has recently passed a bill applying to employers and employees engaged in interstate commerce, which, if finally enacted, I feel quite sure will be upheld as constitutional. By the proposed law the interstate carrier is obliged to pay to an injured employee, or in case of his death to his dependents, irrespective of negligence, certain definite sums particularly specified and graduated according to the extent of the injury or the character of the dependents, but the remedy afforded by such compensation is made exclusive and the common law liability for fault is abolished. Under such a law, while the employer is compelled to pay a reasonable and definite sum of money in every case of injury or death by accident arising out of the employment, he is relieved from the liability to respond in unlimited and indefinite damages in those cases where his fault could be established, and on the other hand, while the employees are compelled to surrender their right in future cases to recover unlimited damages in some cases, the law counterbalances this by conferring upon them the right to recover certain and definite compensation in all cases. The New York statute might well be condemned as an arbitrary attempt to deprive the employer of his property. The proposed federal law is drawn in such a way as to compensate both employer and employee for the rights each is obliged to surrender, and falls within the principle announced by the court in the Noble Bank case (219 U. S., 111), in which it was said:

"It would seem that there may be other cases beside the everyday one of taxation, in which the share of each party in the benefit of a scheme of mutual protection is sufficient compensation for the correlative burden that it is compelled to assume."

As pointed out in the report of the Federal Commission on this subject:

"The exclusive compensation law equalizes the burden. While the employer is made liable in *all* cases of accident for a *definite* amount, he is relieved from the *indefinite* liability which now exists in *some* cases; and while the employee surrenders a present *doubtful* and expensive right of recovery of *unlimited* damages

in *some* cases, he receives in exchange a *definite* and *certain* remedy in *all* cases."

Here then is a great social and industrial problem which, if approached in a spirit of patience, can be solved by a radical change in the common law with justice to both parties within the terms of the constitution. Illustrations might be multiplied if the proper limits of such an address as this would permit, but I must content myself with the general statement, confidently made, that a thorough study of the decisions of the Supreme Court of the United States will demonstrate that in the century and a quarter of its existence, the decisions holding carefully drawn congressional statutes to be invalid which decisions, after thoughtful consideration, have been condemned by the people, have been so rare as to be practically negligible.

The assertion which is so often and so loosely made, that the courts in their decisions respecting the constitution exalt the rights of property above the rights of man, makes a strong appeal to the emotions, but it is untrue in fact, and misleading in what it implies. There is nothing more obstructive to the process of reaching just conclusions than catch phrases of this character, in which plausible sophistry is made to do the duty of passionless logic. There is no such thing as rights of property apart from the rights of man. The vice and the fallacy of the phrase consists in the suggestion which it makes to the average mind that property as a distinct entity may have rights antagonistic to the rights of man. The language of the fifth amendment is, "*no person shall be deprived of life, liberty or property without due process of law.*" The thing protected by the constitution is not the right of property, but the right of a person to property, and this right to property is of the same character as the right to life and liberty. When the courts decide that a law infringes the due process of law provision by assuming to take the property of one person and deliver it over to another, the *thing* is not exalted above the *man*, but the right of one man to possess the thing he owns is held superior to the claim of another to possess it under an arbitrary and confiscatory act of legislation. Courts may sometimes misapply the provisions of the constitution; they may not in every

instance give due weight to our changed and changing social, industrial and economic conditions which, while they do not alter the meaning of the constitution, constantly broaden its scope and application; but on the whole and in the long run statutes which intelligently express the persistently dominant and substantially preponderating opinion are upheld.

This important power of the courts to declare statutes void should be exercised, as it has been almost universally exercised, only where the infringement of the constitution is so plain as to admit of no reasonable doubt in the mind of the judge, but if constitutional and orderly government is to endure there is but one course for the courts to follow, and that is to set their faces steadily and unswervingly against any palpable violation of that great instrument, no matter how overwhelming in the particular instance may be the popular sentiment, or how strong the necessity may seem, for if the door be opened to such violation or evasion on the ground of necessity we shall be unable to close it against expediency or mere convenience. Two parallel lines will continue to infinity without conflict and without extending the intervening space, but let them diverge and the divergence, however slight in the beginning, will become immeasurable in the end. So a departure of the line of legislation from the line of the constitution, though inconsiderable at its inception, will become more and more extended as it proceeds, until some day we shall awake to the startled realization that the two have drawn so far apart that they can never again be reunited.

In the minds of some people the provisions of the constitution are of the same casual nature and are as lightly regarded as the resolutions they make with the New Year season of repentance, but to the thoughtful student of law and government the great principles of the constitution, as old as the struggle for human liberty, are as nearly eternal as anything in this mutable world can be. We do not outgrow them any more than we outgrow the Ten Commandments or the enduring morality of the Sermon on the Mount. This assembly of eminent lawyers does not need to be reminded of the conditions which made the adoption of the constitution an overshadowing necessity in order that all the sac-

rifices and all the sufferings of the Revolution might not be in vain. The constitution did not create the Union, but by making it "more perfect," preserved it from destruction. If the present day teachers of vague and visionary reform would know the fate which will overtake the Republic if the constitution, through the shattered faith of the people, shall lose its binding force, they have but to read the history of our country under the Articles of Confederation. If by some unhappy turn of fortune the constitution should be wrecked, those conditions will be repeated, but intensified in the proportion that our population has increased, our territory extended, and our problems have become more numerous and intricate. The forty-eight states into which our imperial domain has finally been rounded, filled with patriotic, intelligent, justice-loving people, after all constitute but the body of the Union. Its soul is the constitution.

THE AMERICAN JUDICIAL SYSTEM.

THE JUDGES.

BY

HENRY D. ESTABROOK,

OF NEW YORK.

We are a Christian people; the Supreme Court of the United States has said so. But this statement of the court, in *Holy Trinity Church vs. United States*, was clearly obiter and not binding. Moreover, the exact language of the court is: "This is a Christian people. This is *historically* true"; which is possibly an intentional confusion of tenses for the sake of accuracy. It probably means that we were a Christian people before the adoption of the Constitution. As a description of our present status, the assertion must be understood as tentative.

In our country there is no blending of church and state; nor do I think it necessary that a state should adopt a particular church in order to be Christian; that is merely to appropriate somebody's theology to the exclusion of somebody else's theology, which is a long ways from appropriating Christianity. England has owned a church for many years, but is only recently striving to become Christian.

There is a popular tradition that Christianity is founded on the Bible; but if a nation, calling itself Christian, forbids by court decree the study of the Bible in its public schools, where shall we look for a gage to our Christianity unless it be to the courts themselves?

Which is precisely what I am coming at.

A judge, preliminary to his adhesion to the wool-sack, kisses the binding of the sacred volume as a sanction to his oath of office. He should perhaps kiss the open page, particularly where it is written, "Judge not that ye be not judged." Which is another way of saying that as ye judge so shall ye be judged. For instance, we have our opinion of Pontius Pilate, and George Jeffreys, and certain others. We, the

people, have a moral—even a religious—instinct. We would fain be a Christian people. And the word that sums up for us the meaning of Christianity—the word that gathers to itself the holiest ideals of our better nature, is that word—JUSTICE.

Retribution is the sword of justice; mercy its accolade. Justice is worthy of a temple, of priests and priestesses, of altars and acolites. Justice is our substitute for church and state; it means more to us than to any other nation. Justice, in America, stands for God.

Formerly, and until the thirteenth century, all judges were bishops, abbots and other church dignitaries, just as all lawyers were once upon a time men in holy orders. So they are still in a true poetic sense; for I would have you know that the poetry of the law is not exhausted in *John Doe vs. Richard Roe*. But, unhappily, every permanent organization of men, whether in church or state, grows into a political organization; for an organization begets personal ambition, and so ultimately the quality of the officer qualifies to a degree the function of the office. To the ignorant a court of justice is a place of sorcery, where the mysteries of something called jurisprudence are presided over by a great mysteriarch, called a judge, whose words are oracles. To the lawyer, who officiates in these courts, a judge is the symbol of a system—the exponent of an abstract idea—whom by education, training and every tradition of his profession he is bound to reverence. To be sure, he permits himself the clandestine luxury of sometimes criticizing the judge. Why, if you should deny to a lawyer, smarting under defeat, his constitutional right to swear at the judge, you would have to invent some sure cure for apoplexy or there would be a frightful mortality among lawyers! And it might as well be admitted that the judge is not a fetish. He is amenable to criticism, and may be all the better for it. Judges themselves sometimes concede as much. In the recent case of *Hutchinson vs. Hutchinson* (250 Ill. 170) it was determined as an issue in the case that “it is not evidence of insanity to disagree with the judgment of a court.” Junius criticized Lord Mansfield; judges criticize themselves when they reverse each

other. There is latitude for criticizing judges individually or *en banc* without hurt or injury to our institutions. But when a President or ex-President of the United States puts into his criticism of our courts and judges the venom and flippancy of a Denis Kearney, it does hurt, for it belittles and degrades the judicial function!

Which is another thing I am coming at.

Do you realize that while we lawyers and the judges before whom we practice have been pegging away as usual, quoting Coke and Blackstone and Story and Kent for general principles, the multitudinous opinions of our busy courts for modern instances, and interpreting the spawned statutes of our legislatures according to Liebler's Rules of Hermineutics, something has happened without our knowing it? The people of the United States have discovered, suddenly as it were, that a court of justice is not a Joss-house or a dagoba, but an instrument of their own government; that a judge is not a divinity, but a very fallible human being in nature nowise different from themselves.

Of course you and I knew this all the while, so what of it? you will say. Nothing—nothing serious—except that all of the people have not yet assimilated the idea and it has set a few of them crazy. Having discovered that a judge is not an icon to be worshipped, except as their imagination made him such, they are trying to drag him from his niche with the whoop and savagery of real iconoclasts:

The shouting and the tumult grows,
The gust of passion swells and flows—
Lord God of Hosts, be with us all,
Lest we recall, lest we recall!

Yes, it is proposed to recall a judge from his high office to obscurity or disgrace whenever he decides a case—not necessarily contrary to law, but contrary to what a number of people in his vicinity regard as law. It is proposed that a clique of voters may set in motion the vast and expensive machinery of an election for this purpose whenever and as often as they see fit. It is proposed that the issue shall be determined not by a majority vote of all eligible electors, who are perhaps indifferent to the proceeding,

but by a majority of those actually voting on the particular issue, and who are passionately alive to it. Here is an amplification of trial by jury that transcends all idea of law or justice; a trial where the jurors are not even on their *voir dire*, where the judge himself is prisoner at the bar, accused of no crime nor of anything in particular, without benefit of counsel or power to summon witnesses—not even to be confronted by his accusers! It is a dastardly, cowardly, cruel contrivance that would make the iniquity of the Inquisition almost respectable by comparison!

But the recall is only part of the program of progressive reform, so called. Added to it are the initiative and the referendum. Through the magic of these high-sounding words—these lamps of Alladin—certain one-eyed leaders of the blind would persuade their followers that, representative government having proved a failure, the people will by the initiative, referendum and recall resume direct charge of their affairs and usher in the millenium. Obviously this program is not true, either in its assumption of fact or in its promise of performance. Representative government is not a failure. It is the only possible government for any considerable body of free men voluntarily banded together for any purpose—from a golf club or a Bar association to a national organism. A government of the people, by the people, for the people intuitively and inevitably is a government of laws adopted by the people and administered by delegates—a government whose functions intuitively and inevitably classify themselves into legislative, executive and judicial, with powers appropriate to each and carefully limited by a magna charta granted by the people. There is not a debating society of a country school district that would not tell you so much and point to its own organization as a concrete illustration. Our wonderful federal Constitution, which the constitutions of Oklahoma and Arizona have not improved upon, provides in essence for the initiative, referendum and recall, but interposes obstacles to hasty action. That which to you and me is its cardinal virtue is to vociferous demagogues its cardinal evil. It compels us to make haste slowly. Can you imagine any one doubting the wisdom of such a requirement for a heterogeneous people trying to govern themselves?

Claiming to be no more than a fair specimen of the average citizen, I would to God that some power, visible or invisible, human or divine, might hang on to my coat-tails when I am about to act on impulse! Alack! the Constitution still permits the individual to make an impromptu ass of himself, and every one of us is prone to avail himself of the permission. It is only when we are called upon to act for the people as a whole that we are forced to act deliberately. Some Englishman has said that the people of the United States are forever on the point of doing the wrong thing, but invariably do the right thing. So we will always do the right thing if we think twice before we act.

But it is proposed to bunch all hurdles and leap them at a bound, abandoning life, liberty, property, happiness itself, to the varying justice of a varying majority; one majority will pass a law, another majority will interpret it; one majority will elect a judge; another majority will recall him. And this they call a restoration of democracy! It is the enthronement of mobocracy—it is flinging justice to the elements, for Victor Hugo says truly that a mob is an element; there is no more conscience in its bellow than that of a bull moose in rutting time. Calling it a majority does not make it any the less a mob, for all mobs are majorities to begin with.

Sir Thomas Browne, in his "Religio Medici," calls the multitude, "that numerous piece of monstrosity which taken asunder seem men and the reasonable creatures of God, but confused together, make but one great beast and a monstrosity more prodigious than Hydra: it is no breach of charity to call these fools Neither in the name of multitude do I only include the base and minor sort of people: there is a rabble even amongst the gentry."

But why do the heathen rage and the people imagine a vain thing? What awful cataclysm has happened in our republic that any patriot should thus disparage the work of those who founded it? Is it that all the wealth of the country has centered in few hands? I once saw a cartoon in the *New York Journal*, being the grotesque and ugly caricature of several of our richest men, and under it a statement to the effect that these men controlled all the

money of the country. In an adjoining column was an editorial which started off with the assertion that now-a-days millionaires are so common that they had ceased to be interesting. Surely that cartoon was not intended to illustrate that editorial! Is it that Mr. Rockefeller, for instance, has grown too egregiously rich? What of it? Would you take his money away from him? Wait a minute and death, which tears this film of life and spills all our possessions in the grave, will save you the trouble. Meanwhile, it is well enough to reflect that Mr. Rockefeller's money is still on earth and employed in the service of mankind. If report speaks truly, he makes mighty little use of it in the way of riotous living or personal adornment; an occasional new wig and a pretty steady diet of bran mash or stewed prunes is about all he gets out of it, except whatever pleasure there may be in its mastery and control. Well, somebody would have to control all that money if Mr. Rockefeller did not, and I have an abiding faith that it will accomplish infinitely more good for humanity in the hands of Mr. Rockefeller than it would in the hands of Mr. Gompers or the average Congressman. Men like Rockefeller and Carnegie are prodigies. They began as poor boys. Freely have they received, freely have they given. They are good men—as good as you or I—whoever you are! I have lived long enough to know that a man who claims a monopoly of virtue is *per se* a scoundrel. Beware! beware ye who would set limits to the ambition and genius of man in any field of legitimate endeavor! Search your conscience, try your reins, make sure of your motives!

“Hast thou forgot the foul witch Sycorax,

Who with age and envy was grown into a hoop?”

To be sure, Bacon says that there is some good in public envy, whereas in private there is none. “For public envy is an ostracism, that eclipseth men when they grow too great.” But he adds: “It is a disease in a state like to infection. For an infection spreadeth upon that which is sound, and tainteth it; so when envy is gotten once into a state, it traduceth even the best actions thereof, and turneth them into an ill-order.”

It is sometimes a comfort to know that we have only a touch of jaundice and are not really yellow.

All this has reference to the subject of judges only as it involves the judicial function and suggests the animus of those attacking it. Our judges have nothing to fear and little to learn from the crass misrepresentations of current muckrakers, save only as their brawlings attract attention to a more serious and scientific discussion of the meaning, philosophy, history, development and purposes of law and the judicial function, which has been going on throughout the world and which seems to me of deepest significance and promise. This world-wide discussion comprehends a polyglot bibliography too long to catalogue. Our fellow-member, Mr. Roscoe Pound, in his recent pamphlet called "The Scope and Purpose of Sociological Jurisprudence" (to be amplified I hope into a monumental work) has summarized for us the writings and teachings of the world's greatest lawyers with the facility of a linguist, the authority of a scholar, a wealth of erudition and a clarity and beauty of diction that leaves us all his grateful and admiring debtors.

Here is a portent, an indication of a new viewpoint from which law, as a sure-enough science, must hereafter be approached. The old schools, the philosophical, the historical, the analytical, are used in this discussion only as milestones to measure distance. Law henceforth becomes something more than "an adjustment through coercion of the relations of life." From now on law becomes a conscious search for justice.

It is useless to say that judges are not concerned in this; that their sole connection with the law is the perfunctory duty of declaring it. Says Schofield (*Uniformity of Judge-made Law*, 4 Ill. L., Rev. 533, 537) "The 'fiction' that judges only declare law is all that stands between us and a judicial autocracy."

Let us consider this statement for a moment. If I were compelled to elect between a mobocracy or an autocracy—if, peradventure, I were compelled to live under any conceivable form of government other than this noble, heaven-born republic, whose name I utter with a swelling heart, I would, without a second's hesitation, choose to live in a government controlled by judges, anxious only to do right according to their lights. But Mr. Schofield is notoriously wrong. No judge or court in this country

can possibly be an autocrat save in a particular case. Observe the process: A trial court in the suit of John Doe *vs.* Richard Roe sets the ball rolling. Some court of penultimate appeal corrects the errors of the trial court and declares the law as it conceives it. The court of last resort affirms or reverses the case for reasons stated. If the case involves the interpretation of a statute contrary to legislative intent, and the principle announced is of sufficient concern, the legislature can pass a new statute too plain for cavil. If a statute is declared void as transcending the constitutional powers of the legislature, the Constitution itself can be changed by a vote of the people. There is not a single power of our government, from the least to the greatest, that does not spring from and return into the hands of the people. They are the only autocrats. It is true that any change proposed cannot be effected forthwith; it will require time. But a principle of government that is intended to last for all time ought to be thoroughly and carefully considered. Confucius says "the cautious seldom err," and in a popular government like ours it is all-important that the people should never err in the fundamental tenets of their faith.

But it is true, as Mr. Pound says: "In civilized countries, men are compelled to administer justice by formulas. These formulas are designed to express ideas of right and justice and as a means to promote right and justice. But there is always danger that we forget those ideas and lose sight of those ends and treat the formulas as existing for their own sake."

Judges do more than merely declare the law; they interpret it. Give me the right to interpret a law by which I am to be bound, and I care not who makes it. Thus judges do make law. It is the most hypocritical of all legal fictions to say that they don't. And the law has many fictions, all of which are meant, not to affect substantial rights, but to circumvent the letter of the law for the convenient purposes of justice. The very definition of a legal fiction, according to Maine (*Ancient Law*, 26) is: "Any assumption which conceals or affects to conceal the fact that a rule of law has undergone alteration; its letter remaining unchanged, its operation being modified. The fact is that the law

has been wholly changed. The fiction is that it remains what it was."

A concrete illustration of this definition is the celebrated case of *Paul vs. Virginia*, where one of the wisest and most beneficent guaranties of the Constitution—namely, the guaranty that a citizen of one state shall have all the rights, privileges and immunities of citizens of the several states—a guaranty above all others best calculated to convert a heterogeneous people into a homogeneous people, to obliterate state jealousies and weld all the states into a national union—this guaranty, I say, was largely frittered away in *Paul vs. Virginia* through the classical fiction of corporate entity. The case has been pertinaciously followed, with the result that to make confusion less confounded the court has been compelled to arbitrary definition, to refinements and subtlety of distinction that make the judicious grieve. The *fact* remains, however, that only men do business, either for themselves or for other men like themselves. The *fiction* is, that citizens cease to be citizens when they do business as a corporation. But behold the consequences of this decision! The Constitution still stares us in the face, although to make it mean what it plainly says would require that the Supreme Court reverse itself or that the Constitution be amended. Perhaps the several states are only too glad to acquiesce in the ruling of the court, for it provides an excuse for corporation baiting, of which they have not been slow to avail themselves. But to one who takes a national view of things, who is desirous that a citizen or any number of citizens of California, for instance, should have and exercise all the rights, privileges and immunities in Massachusetts that are enjoyed by any citizen of that state, it is matter of regret that *Paul vs. Virginia* was not a suit for breach of promise between the historic lovers of those names and that the question therein decided is not a question yet to be determined. Time permitting, I should like to exploit the case of *Paul vs. Virginia*, for it is one of my *bêtes noires*.

This new school of law writers, I say, have a definite and conscious object in view, which is no less an object than the attainment of social and individual justice; and they would mould juristic thought to the purpose of making of law a veritable

science. The new curricula of studies which they have marked out for a judge would have made Coke and Blackstone snort with indignation. Bacon, I fancy, would have commended them, for their idea is nothing less than the articulation of all knowledge to be utilized for the benefit of mankind through the sanction and energy of law—a theory of “justice through law,” in contrast to the familiar “justice according to law.”

Years ago, at a meeting of this Association in Denver, I read a paper on *The Lawyer*, Hamilton, in which I said:

“The ‘legal mind’ is something more than a store-house for so-called legal lore—something more than an index to cases—something more than a pigeon-hole for court files. Legal lore, on analysis, will be found to be all lore. A man can memorize statutes, formulæ, precedents and yet know no law. For law is not simply the latest guess of a Supreme Court; a good lawyer may sometimes prevail upon that tribunal to guess again. Law is that rule of action which must prevail if justice itself is to prevail, and he is the greatest lawyer who, in the light of the greatest knowledge of whatever is knowable, most clearly perceives the just principle and most persuasively advocates it. I would almost affirm that the legal mind is the scientific mind with an ethical kink in it. Can any one doubt that Lyell, Darwin, Spencer and Huxley were great lawyers in the domain of natural science? Just so was Hamilton a great scientist in the domain of civil law.”

And again:

“But times have changed since the days of Coke, and so have people. Josh Billings says that people change as much as anybody. Jurisprudence, from the Coke standpoint, is not a science but a system of dialectics. It may be that law will only deserve to rank as a science when, as suggested by Darwin, it shall come to be discussed, in company with morals and politics, like any branch of natural history.”

Heaven knows I said all this with no thought that men in Germany, France and elsewhere had in substance said it long before, and had been devoting their lives to bringing it to pass. But so it is. The legislative and judicial functions—the purposes of law and the principles of its application—have been studied and argued from all standpoints. There have arisen the Social Philosophical School, the Social Utilitarians, the Neo-Kantians,

the Neo-Hegelians, the School of Economic Interpretation, the Sociological School of Jurisprudence, which in turn has passed through the mechanical stage, the biological stage, the psychological stage, and finally has reached the stage of an attempted unification. Here is interesting reading, and a judge is asleep who does not bring it into his course of study. For, as Mr. Pound says, it is probably true that "nothing has done so much to create world-wide dissatisfaction with law and to make problems of law-reform acute almost everywhere as the persistence in juristic thinking and judicial decisions of nineteenth-century ideas of the futility of effort at a time when the efficacy of effort had become part of the sociological and political creed." And Professor Henderson varies this statement as follows (*American Journal of Sociology*, xi, 847): "One can hardly escape from the conclusion that a lawyer who has not studied economics and sociology is very apt to become a public enemy."

Prof. Humble, writing on Economics from a Legal Standpoint, in the *Am. Law Rev.* (42, p. 279) says: "So far as any direct influence upon our courts is concerned, our modern text-books upon economics might as well be written in Chinese."

Most of us would probably concede, with these writers, that the entire separation of jurisprudence from the other social sciences, its aloofness and assumed self-sufficiency is not merely unfortunate for the science of law, but widens the gulf between legal thought and popular thought on matters of social reform.

All this goes to the interpretation of law. It is meant to modify a cultivated and hereditary habit of juristic thinking.

A French writer says: "The error of the classical conception was in looking upon law as a science isolated from the others, self-sufficient, furnishing a certain number of propositions, the combination whereof ought to provide for all needs. In reality the law is only a resultant. Its explanation is outside of itself. Its sources must be sought elsewhere."

Writers of this ilk are worth knowing and heeding. There is no cavil in their criticism, no frenzy in their philosophy; their reasoning is without rancor. They assume, rather gratuitously, that law, political economy and sociology are exact sciences, whereas it would be conceding somewhat to call any one of them

a pseudo-science. Pseudo-science Dr. Holmes once likened to a bank that issues fabulous promises to pay on a cash capital of one dollar, the chances being that the dollar is genuine. The fact is, our exact knowledge about anything is so woefully lacking, and our ignorance about everything so woefully apparent, that certain writers have blended our knowledge and our ignorance in a tentative science called "Pragmatism," of which its chief exponent, Prof. William James, says: "What we say about reality thus depends on the perspective into which we throw it. The *that* of it is its own; but the *what* depends on the *which*; and the *which* depends on *us*";—a luminous statement that clears up the situation tremendously.

But however worthy these writers of our study and attention, and however respectable their opinions, it must never be forgotten that our forefathers founded this republic on the idea of individual liberty. Socialism, Communism, Paternalism were furthest from their thoughts. They distrusted majorities, and with reason. As a hopeless, hapless, helpless minority they themselves had suffered the tyrannies of a majority. They came as outcasts to these wild and rugged shores to escape those tyrannies. What the Puritan demanded first and foremost was the right to be let alone; to think what he pleased; to do what he pleased so long as he accorded to others a corresponding right. He recognized no class distinctions and forbade personal distinctions. The sole purpose of government from his standpoint was to preserve the peace and carry on business of national concern. Government was not an eleemosynary institution. It was no part of its function to play the Samaritan; to feed the hungry, clothe the naked or furnish employment to the idle. Government, look you! should be as impersonal as nature.

This spirit of personal independence—proud as a native Indian's—is our unique inheritance, and God forbid we should barter it for a mess of pottage! Every law, however philanthropically intended, creating categories, classes and distinctions among men should be construed in the light of our historic policy. So should every law that smacks of privilege. Every law which in effect takes from one and gives to another without compensation should be declared void.

It may be that the pristine theory of our government is not impregnable, for man is not independent. He is related to and dependent on his fellow man by inexorable necessity. As an individual he has his fling for a generation, and then troubles the earth no more. Only society is perennial. It would seem, therefore, that laws should concern themselves with society quite as much as with the individual, and that where one must yield society should have the preference. The spirit of the home—the spirit of the hive! Between these our laws and judges must make adjustment, and it is work as delicate as it is difficult.

The advocates of sociological jurisprudence are admittedly empirical. In the conduct of their debates theory has given way to theory, dogma has canceled dogma, suggested panaceas have been discarded for others of greater promise; even sporadic experiments in actual practice have seldom justified expectations.

But whatever may be said of the courts, these reformers cannot complain that the legislatures are indifferent to their projects; for our legislatures spawn statutes with the fecundity of codfish—thousands upon thousands of them every year, most of them stretching the police powers to the limits of elasticity. These statutes are dumped onto the judges, who are called “reactionaries,” because they cannot see their way clear to upholding all of them as constitutional. Long live the judges! say I; though I hope no one present will ask, “What on?”

But it seems to me we need judges like John Marshall today as much as we ever did. We have forgotten history; we refuse longer to profit by the experience of others. Our Constitution, like the Twelve Tables of Rome, is in danger of burial beneath the quicksands of shifting legislation. There is nothing new or “progressive” in trying to run a government by a multiplicity of legal rules instead of a few laws defining principles, to be wrought out in judicial precedent. Listen to this from Gibbon’s *Rome* (ch. XLIV): “But although these venerable monuments (the Twelve Tables) were considered as the rule of right and the fountain of justice, they were overwhelmed by the weight and variety of new laws, which, at the end of five centuries, became a grievance more intolerable than the vices of the

City The Decemvirs had neglected to import the sanction of Zaleucus, *which so long maintained the integrity of his republic*. A Locrian, who proposed a new law, stood forth in the assembly of the people with a cord round his neck, and if the law was rejected, the innovator was instantly strangled."

On these terms I would almost favor the initiative, referendum and recall!

I am sorry to say that some of the courts are growing timid under the continued assaults of the legislatures, aided and abetted by political agitators. Recently I had occasion to examine the case of *State vs. Redmon*, 14 L. R. A. (N. S.) 229, arising in Wisconsin, a state where a noted reformer has made his impress. It would seem that some haughty member of the Wisconsin Legislature had collided once upon a time with an equally haughty porter of a Pullman sleeping car, with the result that the legislature passed a law making it a crime for a sleeping-car company to refuse to turn down an upper berth, if unoccupied, on the demand of the occupant of the lower berth, or, on a similar demand, refuse to put up an upper berth, if perchance it had been lowered. And this in the name of the public health! Would not a judge be warranted in wiping out such a law with a sweep of his pen? The Supreme Court of Wisconsin justified itself in so doing in an interminable opinion and a separate concurring opinion, and so dignified the ridiculous!

Judges may be counted on to keep reasonable pace with genuine reforms when their genuineness is attested by something better than the verbal promise of a reformer. It is impossible for the Bench to remain long out of sympathy with public opinion, for it is constantly being recruited from younger members of the Bar, some of whom will surely be imbued with modern notions and so serve as a leaven to leaven the lump. Changes thus made, deliberately and in the process of evolution, are not to be greatly feared, no matter what their tendency. He would be a smug citizen who did not agree with James Russell Lowell, a reformer in his day and one of the sanest of real poets, when he wrote:

New times demand new measures and new men:
 The world advances, and in time outgrows
 The laws that in our father's day were best;
 And, doubtless, after us, some purer scheme
 Will be shaped out by wiser men than we,
 Made wiser by the steady growth of truth.

* * *

I have no dread of what
 Is called for by the instinct of mankind;
 Nor think I that God's world will fall apart
 Because we tear a parchment more or less.
 Truth is eternal, but her effluence,
 With endless change, is fitted to the hour;
 Her mirror is turned forward to reflect
 The promise of the future, not the past.

But criticism of our judges is not confined to their habits of abstract thought or their alleged want of sympathy with radical reforms. Individual judges are being bitterly assailed by name, as unworthy their sacred office. Well, such judges may be impeached, and the remedy is not obsolete. It should be made simpler, perhaps, and the grounds for impeachment widened and defined. No one will defend a bad judge. He is a bad citizen. Not the least objection to the recall is that it brands the good and bad with the same iron. But a bad judge should be branded as bad. He should not only be impeached but otherwise punished.

On the other hand, a writer in a magazine or newspaper who simply takes it out in calling a judge bad names, or in accusations of misfeasance, without setting in motion the machinery to bring his charges to an issue, is as bad as the person whom he assails and should himself be punished. The judge lied about is practically helpless. He cannot summon for contempt except in special cases, and it would be unseemly and alas! probably futile, to sue for libel.

An occasional judge is found wanting because, as intimated, all judges are human. We should keep them from temptation. I am inclined to think that a judge should be permitted no patronage whatever, whereas we are forever thrusting upon them powers of appointment because we want the assurance of their greater abilities and undoubted probity. There should be no perquisites

to the judicial office, but in lieu thereof we should pay our judges salaries worthy their high position. With few exceptions, our judges are scandalously underpaid. If we, the people, did our part and employed the best lawyers we could find, at salaries worthy their time and talents—like England, for example—it would be money well invested. Many a man has become “crooked” through trying to make both ends meet! As it is, we get infinitely better judges than we deserve.

Instead of criticizing the judicial function, which is the most precious feature of our autonomy, criticism of which can do only harm, occasional criticism of judicial manners might be salutary and readily forgiven. Most of us fall into bad manners unconsciously, without some dear enemy or friend to remind us of our faults. The trouble is that the reproof of an enemy is generally spurned as untrue, whereas a friend withholds reproof out of mistaken delicacy. He accepts us as a friend *cum onere*, so to speak. If a lawyer would only tell a judge to his face what he thinks of him, instead of sputtering about him behind his back, he would be doing the judge and the cause of justice a distinct and wholesome service.

It is pretty hard to say just what manners should distinguish a judge or what personal qualities judges should possess in common. An old-time Lord Chancellor, when asked how he made his selection from the ranks of the barristers when obliged to name a new judge, answered: “I always appoint a gentleman, and if he knows a little law so much the better!” Inasmuch as all lawyers are created “gentlemen” by act of Parliament, the Lord Chancellor probably meant a gentleman made such by act of God. I quite agree with him. A judge, first and foremost, should be a gentleman. But what is a gentleman? *Vox populi* has argued this question through our daily press for months at a time, and no two opinions are wholly in accord. To me, a gentleman means a man of culture, invariably kind. That is what every judge should be; and all judges do not measure up to the standard. A judge who is a gentleman maintains the dignity of his office by a gentle firmness without truculence. He neither bullies nor permits bullying. Nor does a judge who is a gentleman

require any adventitious aids from a tailor to maintain his dignity. A black silk robe is appropriate, useful and becoming, and lends a decent solemnity to a solemn function. But how a full-bottomed wig, made of horsehair, one hair black and five hairs white, with coiled hair springs clamping the ears of the wearer—how this regalia contributes to a judge's dignity, I am unable to imagine. The wig requires exquisite care, or it becomes frowsy. In the ardor of a trial it sometimes tips awry or grows hot and clammy like a humidore. The judge who can preserve his dignity dressed up like "Charley's Aunt" is only found in England.

The judge who is a gentleman knows intuitively that his duty is merely to formulate his judgments. He will not in his rulings or opinions indulge in irony or sarcasm at the expense of counsel with whom he disagrees. He knows that it is hard enough for a lawyer to lose his case without further being insulted or humiliated in the estimation of his client. A judge may be as severe as occasion warrants where an attorney's conduct is involved; but the mistaken opinions of counsel he should simply overrule and be done with it. There is something cowardly in a judge speaking to a lawyer in a manner which the lawyer is powerless to resent; for as Shakespeare says, "What's in the captain a choleric word is in the soldier flat blasphemy."

I recall a time when the Justices of our Supreme Court had the bad habit of withdrawing from the Bench during the argument of counsel to partake of refreshments behind a screen. They would leave one of their associates on picket duty, so to speak, who not infrequently slept at his post. The poor lawyer, arguing his client's cause, who perhaps had spent sleepless nights in preparation, would watch the exodus with bewildered and anxious eyes, and keep on talking into empty space. These learned judges did not mean to be unkind, but they were. They did not realize that their action was impolite, but it was. It was most inconsiderate. It was more than that: it was an affront given by one gentleman to another. I do not know what *amicus curiae* reminded them of their fault, but it was long ago corrected, and the greatest tribunal in the world is today a model for the world.

It is not my purpose to trespass on the topics of the gentlemen to follow me further than to suggest that judges could aid more than they do in the efforts being made to simplify the machinery of justice. Where the law gives to judges the power to formulate rules of procedure, they are derelict if they do not occasionally revise their rules where experience has shown them to be defective. It should be an implied duty of the judge to make recommendations along this line. He must know better than the average lawyer or legislator where the shoe pinches, and should from time to time obtrude his knowledge upon the Bar or legislature, whether his good offices are asked for or not.

Should a judge think impersonally and always in the abstract; or should he bring to his task the knowledge of business and affairs? Here is a question concerning which I have never formed or expressed an opinion. There are convincing arguments pro and con. Certain it is that where a corporation lawyer, for instance, has been called to the Bench or cabinet, he has usually disappointed corporate expectations. Whether this is due to a sudden curvature of the spine or whether it is merely utilizing knowledge gained as an advocate, deponent saith not. It demonstrates, however, that when once anchored on the Bench the lawyer is merged in the judge, while the advocate disappears utterly and forever. That is what it means to be a lawyer. It means to do the duty uppermost in whatever cause his abilities are enlisted. It is easier, of course, to criticize the manner of performance of a duty than to define the scope of duty. The supreme duty of a judge is righteous judgment. As to that we are all agreed. But where shall he look for his inspiration? St. Paul says: "All scripture is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness."

As I began with some reference to the Bible, so I conclude by quoting from it a few admonitions of Solomon, the wisest judge who ever lived—admonitions which, however they concern you and me as laymen, seem meant especially for his fellow judges:

"Wisdom is the principal thing; therefore get wisdom: and with all thy getting get understanding. It shall be health to thy navel and marrow to thy bones. Let thine eyes look right on, and let thine eyelids look straight before thee. *Keep thy heart with all diligence; for out of it are the issues of life.*"

THE AMERICAN JUDICIAL SYSTEM.

THE LAWYERS.

BY

JOSEPH C. FRANCE,
OF BALTIMORE, MARYLAND.

The subject, time and place of this discussion seem to imply a critic's point of view. In popular speech and current literature the lawyer is standing at the bar of public opinion—on the defensive. The season's crop of addresses on the lawyer's obligations is already large; and the situation demands respectful attention. If "all we like sheep have gone astray," it behooves us to mend our ways.

Within the twenty-minute limit of this paper, I shall attempt a rough analysis of the conditions, and a brief treatment of one only of the causes. No claim of novelty is made for either the analysis or the treatment.

* * *

And first, it is desirable to reduce the factors to their lowest terms. The "bar of public opinion" is a well-sounding phrase; but just as we are trying the representative lawyer and not the occasional black sheep, so, on the other side, we must eliminate that part of the public whose opinion on the issue is not worth the while. We may, for illustration, set aside the predatory classes, both the rich and the poor. To them alike, the lawyer, if worthy of his calling, is a stone of stumbling. Again, there is the increasingly large and dangerous number of those who see visions but have no comprehension of facts. In their new wonderland, the Recall of Decisions, for example, is a thing as real as was the Mock Turtle to Alice. They constitute the "follow-my-leader" class. Usually sincere, they have been in all ages and climes the easy prey of *any* leader who, forgetting his past,

suddenly developed an inflamed conscience. Having all the weakness of enthusiasm, they mistake novelty for reform and convulsion for strength. They put charitable emotions ahead of constitutional guaranties, and complain of the lawyer chiefly because, having sworn to uphold the Constitution, he keeps his oath. Their attitude towards realities is illustrated by an old story (recently revived and doubtless apocryphal) about a prospective jurymen. Asked if he had formed any disqualifying opinion as to the prisoner's guilt or innocence, he said: "A man with such a villainous countenance as that I am looking at, must be guilty." "But," replied the judge quietly, "you are looking at the clerk of the court."

Eliminating such types as these, there remains for consideration the man who does his own thinking, and for whose opinion we do profoundly care. I shall call him the common-sense person; and notwithstanding present appearances, he is still the typical American. Let us stay for a closer look. Being a firm believer in the brotherhood of humanity, he is not satisfied with existing social or economic conditions; being honest, he is a natural foe of politicians who feed and are fed by the predatory classes; and possessing common sense, he is sometimes puzzled by the fantastic working of the legal machinery. But whatever his views of reform, he is no dreamer. Conceding that law in a free state should aim to provide equality of opportunity, he realizes that no law can produce equality of faculty and that any governmental scheme, however charitable, which ignores diversity of faculty, must ultimately destroy incentive and evolve a common mediocrity. He believes in democracy; yet he knows that successful democracy on a large scale must combine "the wisdom of the few with the power of the many"; and he knows that democracy in this country cannot survive without some form of representative government carried on under self-imposed and honestly respected constitutional limitations which are designed to protect the life, liberty and property of the minority. Finally, this common-sense person distinguishes between the *right of all* the people to rule and *actual government* by all the people. He knows that human nature has changed but little since the days

of the popular court that condemned Socrates; he knows that the average citizen is too busy, and sometimes too indifferent, to vote; he realizes that the problem of democracy lies in getting the best men—the wisdom of the few—into the public service; and not in the attempt to convert all the people into legislators and judges.

* * *

What, then, is the complaint of this common-sense critic against the lawyer? I think it would run something like this: "Your profession," he would say, "is indifferent to its responsibilities and its vows. The purpose and object of a legal system should be the production of justice. And while the wisest rules of law and procedure may go wrong in some concrete case, and miscarriages of justice may often be due to faulty legislation and to unfit juries—nevertheless, you do not put justice in the first place. You are more interested in the legal machinery than in the product; and you do not keep the machinery up to date or even in repair. I have no complaint, the common-sense critic would add, against the lawyer who fights to the finish any real encroachment, however popular, upon the smallest constitutional guaranty. But legal principles seem to be for the most part weapons of attack and defense wielded by hired champions. And the man who loses has often the better cause. Moreover, he would say to us in conclusion, when it comes to questions of social progress, your legal rules seem to act in such a peculiar way. Granting that, in one aspect, the law ought to act as a brake on the social coach—the brake goes on without any apparent regard to whether the coach is going down hill or upwards to a better and higher road. You use the brake when you ought to get out and push."

There is nothing new in this charge—not even its vagueness. Shortly put, it applies to our profession the utility test of Bentham, and finds us wanting. Of course, the charge ignores, from a pardonable lack of information, the splendid work which the leaders of legal education and our Bar Associations, national and local, have done and are doing. Nevertheless, there is a part of the complaint which is not demurrable.

Desiring to emphasize one aspect only of the case against us, I pass over, with the mere mention, certain phases collaterally involved. Intelligence may cope successfully with a poor system, but sloth and ignorance are fatal to the best. We know too well (but our critic does not appreciate) the difficulties injected into the problem by the lax standards for admission to the Bar, which were universal once and are common still. In numbers there is weakness. Much has been done to raise the standards, and in some states they are reasonably high; but, taking the average, much remains to be done. Unless we admit that law can be learned as an apprentice learns his trade, the novitiate must be longer, the foundation broader, and the test for admission more thorough. An occasional genius may be thereby retarded, but there will be no premature births.

* * *

There is, however, something more important than a higher level of learning, and this brings me to my point and conclusion.

In the opening Title of the Institutes, we find that famous definition of Ulpian: "Justice is the constant and perpetual desire of giving to every one his due." And again: "The precepts of the law are these: To live honorably: not to injure others: and to give to each his own." My ancient copy of Justinian contains a gloss which explains that a man's due (*jus suum*) includes due punishment for his delicts; and that to live honorably sometimes requires a waiver of strict legal rights. These are, indeed, golden sentences. Can we say that, in the first place, they are merely counsels of perfection; and that, in the second place, they do not apply to us, because we are not judges but advocates—to whom a *constant* and *perpetual* desire for promoting justice would be embarrassing?

Precisely here lies what I take to be the source of our critic's complaint; and the investigation brings squarely up for valuation a point of view which we have inherited from the older common law. The rules of that law, we are taught, were neither moral nor immoral, but unmoral. In the interest of peace and seisin, for example, they protected (as in a less degree they still do) even wrongful possession. We know that the earlier modes

of trial—the combat, the ordeal and the oath—were appeals to the judgment of God. In such a system, whatever part the lawyer played was mechanical; and doubtless something of the same conception (namely that the result will establish the truth) was carried over to the trial by the country as ultimately represented in the sworn verdict of twelve men. But whatever the explanation, the fact remains that our profession has never assumed any responsibility for justice as distinguished from victory. "Tell the truth if necessary to win the case," is a scurrilous jibe, but not altogether pointless. We do not, as a profession, put justice in the first place. Until a comparatively recent time, the apostle of legal ethics has been as the voice of one crying in the wilderness; and even today that subject has something of an apologetic aspect. We teach that the lawyer should not champion an unjust cause, but we commonly hedge by saying that after all the jury is the judge of the facts and the court, of the law. We emphasize the duty of unswerving fidelity, and forget that serving the client is not always a lawyer's highest duty. The question is not so much one of legal ethics as of professional viewpoint; and it seems to me we are bound to agree with those who say that the common law conception has survived its usefulness: that the argument based on advocacy is overweighted: and that the Justinian standard should be the ideal not alone of the judge, but also of the lawyer. Nor is such a standard Utopian. In the first place, it does not mean that we must necessarily decline a case in which legal rights will produce harsh results. But it does mean an honest effort to mitigate such results: and the refusal, in an unconscientious case, to shift the responsibility on to the judge or the jury. The preacher would say that the lawyer, especially, has his soul to keep. In the second place, the suggested standard does not limit the legitimate scope of advocacy nor the honorable zeal of the advocate. It assumes the lawyer's duty to present the cause of his client, once he has undertaken it, in the best light, and to use therein all the technical skill and all the fair advantages that the rules of the game permit. But it does not allow him to distort the facts, to befuddle the court, or to play the part of an ancient hired champion or that of a modern expert witness.

Here some practical person may ask the familiar question: Do we practise law for the glory of God? I answer, What's the harm? Is it true that the standard suggested will interfere with professional success? Philip Yorke, afterward Lord Hardwicke, Chief Justice of the King's Bench and Lord Chancellor, was a great lawyer and a great judge; and by his own merit and force of intellect he won and proved worthy of the legal prizes of his day. By some biographer, whom I cannot now cite, he is quoted as saying, in effect, that an advocate's surest way to success lies in making a fair and frank statement of the opponent's case; and in addressing the jury "with the veracity of a sworn witness and with the impartiality of a judge." High ground, that; but certainly worth the taking and not difficult of access—once the standard of the profession is planted there.

The July Bulletin of this Association's Comparative Law Bureau contains an interesting account of the French notarial system—concerning which the writer concludes: "As a body, the notaries of France occupy a place in the public esteem equal to, if not higher than, that accorded any other man or set of men in public office. The disciplinary powers of the Chambers are rarely invoked and malfeasance in office has been practically unknown for the past hundred years." This happy condition may be due to mere enlightened self-interest: the parallel, of course, is not exact: and because of the democratizing tendency which renders us supersensitive to the cry of exclusiveness, it is difficult to give our Bar Associations that unity of purpose which makes for influence. But by precept and by example we can do more than most of us are doing. The strength of the common law lies, of course, in its instinct for the concrete case; and this has produced in the common law lawyer a distrust for the abstract. It is hard for us even to seek first the justice, as distinct from the success, of our concrete case; and the broader questions of social justice are approached and considered only by a mental effort. They seem foreign to our training. To be sure the old order is changing; and the law school graduate of the future, by reason of his broader and more philosophic training, will be a man of ideals. But it is our part as lawyers and

judges to supplement the work of the teachers, and this we can do most effectively, through the local Bar Association. Here lies our nearest duty—whatever may be the cost in time and personal inclination. To make the local Association a center of force: to make membership connote moral and professional standing: to make it attractive to the deserving and formidable to the knave—this is the problem. By solving it we will promote among the people a love for law and order and a genuine respect for the profession which teaches us all: To live honorably, to do no injury and to render unto each his own.

THE AMERICAN JUDICIAL SYSTEM.

THE PROCEDURE.

BY

FREDERICK N. JUDSON,

OF ST. LOUIS, MISSOURI.

In the popular as well as the professional arraignment of the American Judicial System, especial attention has been directed to the adjective rather than to the substantive side of the law; that is, to the system of judicial procedure and its alleged inadequacy in the practical administration of justice. It is no exaggeration to say that the judicial procedure of the United States is now on trial before the bar of the public opinion of the country and even of the civilized world. This public arraignment of our judicial procedure has appeared not only in our State and American Bar Associations, but in the popular press, and this public arraignment has been voiced by our foremost citizen, the President of the United States, himself an experienced jurist, who has declared that the most conspicuous failure of our American civilization is in the administration of justice, both civil and criminal.

This subject is not new in this Association. Some twenty-five years ago a searching investigation was made of the causes of the delay in the administration of justice, and it was found then that the average length of a civil law suit in the United States then varied from a year and a half to six years. The special committee appointed by the Association for this investigation reported that if it were possible to put into ten words the chief causes of the delay and uncertainty in our judicial administration, they would say: "Complex procedure, inadequate judiciary, procrastination, retrials, unreasonable appeals and uncertain law."

An interesting paper was read by Professor Roscoe Pound before this Association in 1906, on the causes of popular dissat-

isfaction with the administration of justice. After showing that dissatisfaction with the administration of justice was as old as the law itself, he found that a potent cause of popular dissatisfaction was the American exaggeration of the common law contentious procedure. "The sporting theory of justice, the instinct of giving the game fair play, as Professor Wigmore has put it, is so rooted in the profession in America, that most of us take it as a fundamental legal tenet." This sporting theory of procedure, he says, "disfigures our judicial administration and too often makes the judges mere umpires in the game, and makes the main effort of counsel to get error into the record, rather than to dispose of the controversy fully and justly upon the merits."

This paper of Professor Pound was referred, not only to the General Committee on Judicial Administration and Remedial Procedure, but also to a special committee, and this latter made recommendations approved by the Association in 1909, that Congress should enact an amendment to the Federal Judiciary Act, so that no judgment should be set aside or reversed or a new trial granted for error in any matter of evidence or pleading or procedure unless it should appear that the error complained of had injuriously affected the substantial rights of the parties. In other words, it was sought by legislative enactment to abolish the judicial presumption of prejudice from error, which had become firmly established in the appellate procedure of the country, both state and federal, though there has been a difference of judicial opinion as to the weight of this presumption. This recommendation has not yet been enacted by Congress.

The really effective cure for the miscarriages of justice which sometimes result from the application of this presumption of prejudice from error, must be found in the development of public and judicial opinion, whatever the statutory enactment. This is illustrated by the fact that similar state statutes have not prevented some of the state appellate courts from holding that prejudice is necessarily presumed from error, and that this presumption must be rebutted from facts affirmatively shown by the record.

The limits of this paper will not permit a discussion of the details of procedure, nor a reference to the enactments in some of the states, nor to all the specific remedies suggested. A very comprehensive recommendation has been approved by this Association for adoption by the several states, that the whole judicial power of the state, at least for civil causes, should be vested in one great court, of which all the trial tribunals should be branches or divisions, that being in effect the English system which has eliminated the technical questions of procedure which embarrass and delay our courts. This plan contemplates such an organization of the judicial system as to prevent the needless waste of time, by duplication of records and the like, thus obviating expense to the litigant and cost to the public. Some states have already taken steps in this direction, as in abolishing the requirement of a motion for a new trial as an essential of appeal, or the needless formalities in preserving exceptions and the distinctions between matter of record and matter of exception, with which the reports of our appellate courts have been filled, and which are unknown in England or in Canada.

The discussion of reform in our judicial procedure would be incomplete without a reference to the law of evidence, which is a part of the law of procedure. No feature of the English courts has impressed American lawyers who have attended trials therein as much as the comparative absence in the English courts of discussions of evidence in the admission or exclusion of testimony, with which we are so familiar in the courts of this country. Our system of evidence, certainly in its exclusionary rules, is essentially artificial and an outgrowth of our jury system. Governor Simeon E. Baldwin, formerly Judge of the Supreme Court of Connecticut, in a recent address before the Missouri Bar Association, says that the English judges made these rules of evidence for the most part centuries ago, and made them because they, the judges, had to deal with juries composed of men of illiterate and untrained minds, incapable of making nice distinctions and discriminations as to the weight of evidence.

Mr. Wigmore, in the introduction to his exhaustive treatise

upon evidence, says that the rigid construction given in the American courts to these exclusionary rules and the frequency of reversals on account of erroneous rulings occurring in protracted trials, are largely owing to the contentious theory of our jurisprudence, that makes every appellate hearing a quest for error, rather than a search for justice. He finds the remedy in the broader and more liberal training of our lawyers. Governor Baldwin points out that the only solvent of the difficulty is to give more and more range to the sound discretion of the trial judge, and this, he says, is really the redemptive factor of our law of evidence, and may be the distinguishing part that our judges must play in adapting our jurisprudence to the wants of a busy commercial age.

The delays and the oftentimes resulting denial of justice in our judicial procedure, are impressively contrasted with the promptness and efficiency of the judicial systems of Great Britain, Canada and the Continental countries of Europe. Especially notable is this contrast with the system of Great Britain, from which we have inherited our common law and our rules of evidence and the essentials of our judicial procedure.

Professor Lawson of my own state, who was especially delegated to investigate the judicial administration of Great Britain, tells us that the English Digest for twenty years has not contained the title "Appellate Procedure," and for the reason that there is there no appellate procedure. Written opinions which with us are a matter of course in every appellate court, and sometimes in trial courts, are there almost unknown. That is to say, the judges there announce their opinions orally and they are taken down by the reporters.

This contrast of American procedure with that of England is interesting when we recall that the reform of the English procedure is comparatively modern. The trial by battle was not formally abolished in England until 1819; and it is only in comparatively recent times that the relation of procedure to the substantive law has been clearly and distinctly understood in England. We followed her example in abolishing in many states the ancient common law forms of procedure and in adopting the

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so-called reform code of procedure; but we have not yet recognized, as has been recognized in England, that any code of procedure which undertakes to regulate all the details of practice may itself become the subject of technical construction and lead to the miscarriage of justice. Thus, some of the most notable technical decisions which have startled the country in recent years have been rendered in states which for many years have had the so-called reform procedure in their statutes.

The true remedy is that which is now being pursued by the Supreme Court of the United States in the reformation of the equity procedure of the federal courts, and that lies in the repeal of all statutory rules of procedure and in leaving the details to be controlled by the judges under rules of court, made from time to time as occasion requires. This is the reform which has practically worked a revolution in the judicial procedure of England, which has removed questions of practice from their appellate courts; and this is the reform which is now being urged for adoption in many of the states by the local Bar Associations.

This deplorable inadequacy of our judicial system, which is so sharply contrasted with that of other countries, has been developed, at least in the state courts in the United States, during a period of legislative activity which has been directed against the common law independence of the judges and has resulted in effectively limiting their power. It has been a period of a progressive democratization of the courts, which apparently has not yet ended. In the great majority of the states, judges of the state courts are nominated and elected by the people. Mr. Bryce, in his recent revision of his *Commentaries upon our Institutions*, says that the American Bench has suffered from the all-prevalent system of popular election and from the scanty remuneration allotted. Since he wrote this revision, three of the states have adopted the principle of direct judicial recall, so that the judges who made unpopular decisions can be summarily removed from office by popular vote. In many states, the judges are subject to a recall hardly less effective, by the short judicial terms which require them to submit to the judgment of the voters at frequent intervals.

This legislation based on a distrust of the judicial power, has extended beyond the shortening of the judicial terms. Although the ancient forms of pleading have been generally abolished, the codes of most of the states undertake to provide the details of judicial procedure, and in many the trial judges are compelled to give their instructions to the jury in writing and are forbidden to comment upon the testimony. In some of the states, the appellate judges are forbidden to exercise any discretion as to what opinions should be given in writing, and therefore must give them all in writing, whether important or unimportant, and are compelled to set out in their opinions a full statement of the facts and the reasons for their conclusions.

This is the judicial procedure which has proven inadequate for the demands of a busy commercial age, and has resulted in congestion in the appellate courts of many of the states, which has caused delays which are in effect a practical denial of justice.

The instructive and impressive conclusion which we must draw from this consideration is, that the only effective remedy for this deplorable situation is the vesting of a larger discretion in the judges, so that they may disregard technicalities, regulate the rules of procedure, and inaugurate a reform of the anomalies of our archaic rules of evidence. We must, therefore, retrace our steps, and vest not less, but more independence in our judges.

Those who seek to impair the independence that they still have by holding above them the threat of summary dismissal by popular petition, or by reviewing their opinions at the Hustings, will only aggravate our existing defects in the administration of justice. We cannot remedy the existing situation until we enlarge and dignify the office of the judge.

One may naturally ask for the reasons why reform in judicial procedure has been so effectively established in England, while it is so notoriously laggard in this country, though both have inherited, and administer, the same system of substantive law.

In the first place, there is in England a vastly greater prestige attending the office of judge, due no doubt in great measure to the peculiar deference there paid to official station. It is also true that in that country the trained professional opinion of the Bar carries

greater weight in directing public opinion essential to legislative action, and such action by a sovereign parliament is far more direct than that secured through the complex governmental machinery of this country.

Furthermore, in England, the judges are relieved from the necessity of deciding the constitutional questions which are involved in our political system of rigid constitutions, as Mr. Bryce terms them, both state and federal, and the judges therefore escape the criticism, which the exercise of this duty arouses among those who are impatient of all restraint upon the speedy accomplishment, through legislation, of desired social reforms.

On the other hand, in this country, while we cannot give our judges the deference and prestige which is due to inherited social conditions, we *can* secure a judicial independence, even in an elective judiciary, which will rest upon a more enduring basis—the conviction of an enlightened self-governed people, that prompt and efficient administration of justice cannot be secured except through the wide judicial discretion of an independent judiciary. We cannot secure judicial reform through the enactment of a sovereign parliament, effective throughout the country, but the complex machinery of our government delays only the whim, and not the will, of the people. The true philosophy of our governmental system is that it only insures that second sober thought of all the people, which is essential to all true and enduring reform in human progress.

Another consideration must not be overlooked: We shall be compelled either to diminish the number of appeals by limiting the right of appeal, or we must reform our present system requiring written opinions in all appeal cases, however unimportant as precedents, as the present system must in the not distant future break down when the overwhelming multiplication of printed reports becomes a burden too great to be borne.

I am not considering now the possible effect of the multiplied accumulation of case law upon the doctrine of judicial precedent, which is too large a subject for discussion within the limits of this paper; but I do call attention to the growing practical necessity for controlling and limiting the multiplication of printed

judicial opinions. As Professor Lawson has pointed out, the written opinion is an American innovation in the law. At English common law, the judgments were always oral, except in very special cases, where there was a *curia vult advisari*, and the English reports were made by lawyers who sat in court and took down the judgments in their notes from the lips of the judges. What need is there for an appellate judge to include in his opinions copious citations from text-books and opinions from different parts of the country upon plain propositions of law? .

Lord Coke says,¹ "If judges should set down the reasons and causes of their judgments within every record, that immense labor should withdraw them from the necessary service of the commonwealth, and their records should grow to be like *elephantini libri*, of infinite length, and, in mine opinion, lose some of their present authority and reverence; and this is worthy for learned and grave men to imitate."

These remarks of Lord Coke were quoted by Justice Field, then Chief Justice of the Supreme Court of California and afterwards Justice of the Supreme Court of the United States, in an opinion holding invalid a statute of California requiring the Supreme Court judges to give the reasons of its decisions in writing. He said the practice of written opinions was of modern origin, and that the legislature could no more require the court to give the reasons for its judgments, than the court could require the legislature to give the reasons for its enactments.²

This view has not prevented some of our states, as already pointed out, from specifically providing, both by constitutions and by statutes, that appellate judges shall give their opinions in writing. The constitution of California, subsequent to this opinion of Justice Field, provided that judges should not draw their salaries until they had certified that they had had no case under advisement for more than the prescribed number of days.

It may be said in passing that stenographers, though indispensable to the exigencies of modern life, have not been an

¹ Coke's Reports, Part 3, Pref. 5.

² *Houston vs. Williams*, 13 Calif. 24. This ruling has been followed in Colorado, *Bullett vs. McGur*, 14 Colo. 577; and in Arkansas, *Vaughan vs. Hart*, 49 Ark. 160.

unmixed good to the Bar and the public in the preparation of judicial opinions. I have heard learned judges say that such was their volume of business that they had no time to condense their opinions, and that they were compelled to give to the profession—printed at the cost of the public—the results of their unrevised dictations.

The only effective remedy in this enormous multiplication of law books, which are searched for judicial precedents, is in the limiting of writing formal written opinions to those cases which are deemed to be important as precedents. This determination must be made by some authority; and here again we find the necessity of vesting a larger discretion in our courts. No doubt these provisions requiring written opinions were enacted from the distrust of the judges, and with the view of compelling evidence of the performance by the judges of their duty in the examination of the cases decided by them. But the time has come when this jealous distrust of the judges must give way to the necessity of a prompt and speedy administration of justice for the people. The great guiding principles of the law are now determined, though the infinite complexity of human transactions will continue to call for new applications of these controlling principles. It must be conceded that our printed volumes of reports are crowded with opinions that can be of no conceivable value in the decision of future controversies.

The situation in this country in our judicial procedure is the more intolerable, and indeed indefensible, when we consider that it is now recognized by the students of historical jurisprudence that extreme technicality is a sign of an undeveloped system of law, in which legal rights are subordinate to the procedure to enforce them, wherein the substance is secondary to the form. Centuries ago, the main business of the courts was in ascertaining rules that litigants should follow, and this extreme technicality and formalism in the early days of society was a step, but only the first step, toward a rational system for determining controversies. It was better than private war. That is, the determination by chance and wager of battle was an advance upon that primitive state where men took the law into their own hands. We now

recognize that the demand for simplicity in procedure does not spring from ignorant reformers and radical iconoclasts, but is a progressive step in the rational advance of a progressive jurisprudence. Forms were regarded with superstitious reverence in the early stages of society, but we now recognize that the simpler the procedure the better it serves its purposes. It does not mean that accuracy and precision of statement in judicial procedure shall be any less important than they are now, or that a clear and concise statement of the facts in issue will not always be effective. Substance and not form, however, must be of the first importance. It does not mean that we shall substitute haste and want of consideration for deliberation and judgment; but it does mean that our judicial machinery must be so modeled that justice can be literally brought home to the people, and that busy men can afford to litigate the complicated questions arising in our complex industrial life.

The realization of this reform in our procedure which is so essential to the due administration of justice, is not a Utopian dream. Such a suggestion, in view of the experience of other countries, would be an imputation on the practical good sense of the American people, and indeed upon their capacity for self-government. It clearly appears that this reform is dependent at every stage upon the wide discretion of an enlightened and independent judiciary. Whether we substitute elastic court rules for a rigid statutory procedure—or appeal to the courts to apply their judicial discretion in liberalizing our archaic rules of evidence which now obscure the ascertainment of the facts in issue—or if we make the trial judge more than a mere umpire in the game of litigation, or if we seek to reduce the overwhelming mass of printed reports to those only useful as precedents, or even if we seek to reduce the intolerable length of judicial opinions—or if more than all, we seek to remove the ancient presumption of prejudice from error, and to make our appellate hearings more than mere quests for error—in each and every one of these methods of reform we find as an indispensable factor the enlarged discretion of an independent judiciary. This much is certain, if we continue in the mistaken policy both past and present, of

distrusting and limiting the judicial power and of preventing as far as may be the exercise of judicial discretion, our efforts for effective reform in judicial procedure will be forever vain and impotent.

Judicial procedure, which has been aptly termed the "Key of the temple of jurisprudence," fittingly closes this Symposium, wherein the judge and the Bar have been separately discussed. We have seen that an independent and enlightened judiciary is an indispensable factor in any effective reform; so also is essential the co-operation of the Bar, not only as a support to the Bench in the securing and maintaining of an enlightened and independent judiciary, but also in guiding and directing the essential public opinion. By the agitation and direction of this reform in our procedure, the American Bar will vindicate its right of inheritance to the lofty traditions of an ancient and honorable profession, and will realize the noble ideals of ministration at the altar of justice.

REPORT

OF THE

COMMITTEE ON JURISPRUDENCE AND LAW REFORM.

To the American Bar Association:

Three resolutions have been referred to your committee on Jurisprudence and Law Reform:

1. The resolution as to evidence.
2. The resolution as to formulating laws in the United States.
3. The resolution as to detention of innocent witnesses.

On the first resolution: Your committee reports, that substantially the same resolution had been referred to the committee in 1910, and was reported by the committee at the session of 1911. The report of the committee was adverse, and the report was adopted. The original resolution, which will be found on page 380 of the report of 1912, deals with the admissibility of evidence in all criminal prosecutions. The resolution now under consideration provides, that persons accused of crime and being under arrest shall not be examined in private, and shall not be examined in public without being informed:

(a) "That he is entitled to have counsel present at such examination, if he so desires."

(b) "That he need not say anything or answer any questions unless he so desires, but that whatever he does say, or whatever answers he may make, will be taken down in writing and may be given in evidence against him at the trial."

The resolution further provides, that "whatever the prisoner shall then say, either voluntarily, or in answer to interrogatories, should be taken down in writing, and be read over to him by a justice or magistrate and should be signed by the justice or magistrate, or else the statements therein contained should not be used against him." As your committee understands this resolution, if there has been a compliance with the above recited

conditions, then "the statements" contained in the writing are admissible against the accused. These statements of "an accused person, under arrest and charged with a criminal offense," are *confessions*, and under this resolution these statements would be admissible as confessions. The law governing the admissibility of a confession has been thus stated: "To make a confession admissible, it must have been made voluntarily, without being induced by another, by the slightest hope of benefit, or remotest fear of injury."

If the evils which the preamble to the resolution sets out exist, they are most reprehensible, but your committee is of opinion that they are local and the remedy should be local. The committee is not prepared to recommend a change in the law of evidence, believing that the law governing the admissibility of confessions is, if duly regarded, the strongest safeguard against the admissibility of a confession wrongfully obtained.

The second resolution is as follows: "That the Committee on Jurisprudence and Law Reform be instructed to consider and report to the next annual meeting of the Association whether some efficient agency cannot be inaugurated under the auspices of this Association to promote the scientific and expert supervision of the formulation of laws in the United States to the end, that their number may be decreased and their quality improved, or whether a special committee should be appointed to consider and act on the said subject."

Your committee realizes the existence of the evil sought to be remedied. It is conceded, that there is too much slipshod legislation. But your committee is unable to suggest any agency that will secure the end desired. Each state is sovereign, and the average legislator is a law unto himself. The denser his ignorance, the greater his complacency and the larger his self-importance. Any interference with local legislation, we fear, would be regarded as an impertinent intrusion. The nearest solution seems to be in the work of the Commission on Uniformity of Law. All the states, territories and possessions of the United States are now represented on that commission. The bills recommended by that body have been drawn by experts

and are models of parliamentary writing. The report of the committee of this Association on Uniform State Laws will present fully the work which has been done by the conference. Briefly, it may be said that the Negotiable Instruments Act has been enacted in forty states, territories, possessions and the District of Columbia. The Warehouse Receipts Act in twenty-four; the Sales Act in ten; the Divorce Act in three; the Stock Transfer Act in five; the Bills Lading Act in eight; the Foreign Wills Act in six, and the Family Desertion Act in four. This work is being done under the auspices of the Association.

Your committee does not recommend the appointment of a special committee to act on this subject for the reason that, in their opinion, better results can be obtained through the representatives of the several states in Conference.

On the third resolution: Your committee was required "To ascertain the states in which innocent witnesses may be involuntarily detained, and determine whether such laws ought not to be condemned."

In order to comply with the mandate of the resolution, inquiries were addressed to the members of the General Council as to the law on this subject in their respective states, and replies have been received from forty-eight states. The replies are attached to this report, and will be filed with the Secretary.

In the following states innocent witnesses may be involuntarily detained:

California; Colorado; Connecticut; Delaware; Georgia; Idaho; Illinois; Iowa; Kansas; Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Missouri; Montana, imprisoned long enough to take his deposition; Nebraska; Nevada; New Hampshire; New Jersey; New York; North Carolina; North Dakota; Ohio; Oklahoma; Oregon; Pennsylvania; Rhode Island; South Carolina; South Dakota; Tennessee; Texas; Vermont; Virginia; Utah; Washington and Wisconsin.

In the following states innocent witnesses may not be involuntarily detained:

Alabama; Arkansas; Florida; Indiana; Kentucky; West Virginia and Wyoming.

We have grouped these seven states as having no statute that will permit the involuntary detention of innocent witnesses, and yet it is doubtful if Alabama, Indiana, Kentucky and West Virginia should be so grouped. In the cases of Arkansas, Florida and Wyoming we are informed by the learned members of the General Council for these states that innocent witnesses cannot be "involuntarily detained," and we therefore take it, that such is the law in those states. In the case of Kentucky, we have been furnished the statute law of that state, and it appears, that there is no statute in Kentucky on the subject. In Indiana and West Virginia, we are informed, there has been no legislation in this particular. It would seem, however, that in Florida, Indiana, Kentucky and West Virginia, in the absence of a statute, that the common law would govern. Without going into an exhaustive review of the history of recognizances to give evidence, it is not improper to say, that by the express provisions of the statutes 1 and 2, Ph. & M., c. 13, s. 5 and 2 and 3 Ph. & M., c. 10, s. 2, authority was given to a magistrate in cases of manslaughter and felony, to bind the witness to appear, and if the witness refused to give such recognizance, the magistrate had the power to commit him. Dr. Bishop, in his work on Criminal Procedure, says: "Sometimes the purposes of justice require that these recognizances be with sureties and occasionally the unpleasant result follows that a witness cannot obtain sureties and he is detained in prison."

We find that the statutes of practically all the states permit the involuntary detention of innocent witnesses. The right of detention is exercised under varying conditions, but, it nevertheless exists. Your committee is instructed by the resolution to say whether the law permitting the involuntary detention of a witness ought not to be condemned. It matters not how atrocious the crime, and that the witness to be detained is the only witness, and that he has expressly declared that he will flee the country, so as to avoid testifying, yet, nevertheless, we are asked to say that he should not be detained. This your committee must decline to do, for, while personal liberty is a sacred right and

should not be restrained except by due course of law, yet we are of opinion that sometimes the purposes of justice require the involuntary detention of a witness, and when such rare occasions arise, the witness should be detained, due regard being had for his comfort, his personal liberty being protected by every reasonable safeguard, and just compensation being paid him for his detention.

Respectfully submitted,

P. W. MELDRIM, *Chairman*,
C. C. ALLEN,
J. M. BECK,
WILLIAM A. KETCHAM,
W. L. PUTNAM.

REPORT
OF THE
COMMITTEE ON JUDICIAL ADMINISTRATION AND
REMEDIAL PROCEDURE.

To the American Bar Association:

At the last meeting of the Association in Boston no matter was referred to your committee by direction of the Association.

After adjournment, however, the Executive Committee, at its meeting on January 4, 1912, directed that a resolution presented by Mr. Thomas Shelton of Virginia at the meeting in Boston and then and there referred to the Executive Committee, be transferred to the Committee on Judicial Administration and Remedial Procedure.

By just what warrant or authority one committee of the Association to which a matter has been committed may thus transpose its obligations it would serve no useful purpose to inquire.

Mr. Shelton's resolution is as follows:

WHEREAS, Section 914 of the Revised Statutes has utterly failed to bring about a general uniformity in federal and state proceedings in civil cases; and

" WHEREAS, It is believed that the advantages of state remedies can be better obtained by a permanent uniform system, with the necessary rules of practice prepared by the United States Supreme Court;

" Now, therefore, be it and it is hereby resolved:

" First: That a complete uniform system of law pleading should prevail in the federal and state courts;

" Second: That a system for use in the federal courts, and as a model, with all necessary rules of practice or provisions therefor, should be prepared and put into effect by the Supreme Court of the United States;

" Third: That to this end, Sec. 914 and all other conflicting provisions of the Revised Statutes should be repealed and appropriate statutes enacted;

" Fourth: That for the purpose of presenting these resolutions to Congress and otherwise advocating the same in every legitimate manner, there shall be appointed a committee of five members to

be selected by the President to be known as 'The Committee on Uniform Judicial Procedure.'"

The Executive Committee did not accompany its reference with instructions, and this committee assumes that the only purpose of the reference was to determine whether, in the opinion of your committee, Mr. Shelton's resolution should be recommended for adoption.

The subject-matter of the resolution is one of great importance. It is true that Section 914 of the Revised Statutes has failed to bring about any uniformity in proceedings in civil cases. It is true that uniformity in this respect is most desirable; and the inference drawn from the resolutions seems to your committee justifiable, namely: That if a complete uniform system of law pleading and procedure should prevail in the federal courts—a system carefully modeled by the Supreme Court of the United States—it would in time induce the several states to adapt their own systems of pleading to such model.

Mr. Shelton's resolution could with propriety be referred to the Committee of Fifteen, already in existence, and whose special work would include the work outlined by the proponent. But this particular work could probably be accomplished through the efforts of a smaller committee having one object in view, and enthusiastically alert to accomplish it.

We therefore recommend to the Association the adoption of Mr. Shelton's resolution.

On February 5, 1912, the Secretary enclosed with a letter of that date a resolution of the Wake County Bar Association, North Carolina, which, according to the statement of the Secretary, President Gregory thought should go to the Committee on Judicial Administration and Remedial Procedure.

The resolution of the Wake County, North Carolina, Bar Association is as follows:

"Be it remembered that at a meeting of the Bar of Wake County, North Carolina, held in Raleigh, N. C., on January 17, 1912, at one o'clock P. M., the following resolutions were unanimously adopted:

"*Resolved*, By the members of the Wake County, N. C., Bar that they heartily approve of the bill introduced in Congress,

January 13, 1912, by Hon. E. Y. Webb, and being H. R. 17826 and entitled 'A bill to amend sections nine hundred and thirteen, nine hundred and fourteen, and seven hundred and twenty-one of the Revised Statutes so as to conform the practice in actions at law and suits in equity in the courts of the United States to the practice obtaining in the courts of the several states.' And that they earnestly hope that said bill may be enacted into law.

"Resolved further, That a copy of this resolution be sent to each of our Senators and Representatives in Congress, with the request that they use their best endeavors to expedite the passage of said bill.

"Resolved further, That a copy of this resolution be transmitted to the President of the American Bar Association, to the President of the North Carolina Bar Association and to the Chairman of the Committee on Revision of Equity Rules for the Fourth Circuit."

(Signed) HERBERT I. NORRIS,
Chairman.

CLYDE A. DOUGLASS,
Secretary.

Your committee hereby certifies that it has received and sympathetically perused the foregoing resolutions. What further in the premises was expected of it, your committee is not advised.

Respectfully submitted,

HENRY D. ESTABROOK, *Chairman,*
WILLIAM P. BYNUM,
FREDERICK N. JUDSON,
WILLIAM A. BLOUNT,
N. H. LOOMIS.

REPORT
OF THE
COMMITTEE ON COMMERCIAL LAW.

To the American Bar Association:

Your Committee on Commercial Law reports as follows:

I. BANKRUPTCY.

(a) *Repeal of Act.*—Your committee after careful consideration reiterates what it said in its Reports of 1910 and 1911, "After a thorough investigation your committee is convinced that the National Bankruptcy Act is a wise measure, and that every effort should be made to prevent its repeal."

On the 4th of December, 1911, Mr. Sims introduced in the second session of the 62d Congress, H. R. Bill No. 14093, entitled "A Bill to repeal an Act to establish a uniform system of Bankruptcy throughout the United States, approved July 1, 1898." Your committee advises that every effort should be made to prevent the enactment of this bill.

(b) *Receiverships.*—Your committee, after consultation with members of the Congress of the United States, concluded that it would be inadvisable to urge at the present session any measure looking to the amendment of the National Bankruptcy Act.

Your committee, however, has in no wise changed its opinion as to the propriety and importance of the amendment in regard to Receiverships recommended in its report of 1911 and approved by the Association.

(c) *Uniform Exemptions.*—Your committee asks for time to report on this subject.

(d) *Distribution of Partnership and Individual Assets.*—Your committee requests further time to report on this subject.

(e) *An Act Fixing the Time of Vesting Title to Realty in the Trustees.*—Mr. Dalzell on the 4th of December, 1911, introduced

in the second session of the 62d Congress, H. R. Bill 14122, which provides: "That no proceeding in Bankruptcy shall be notice as to realty situated in any county other than the county in which the district court is located where the proceedings are pending until a certificate of the fact of bankruptcy is filed in the office for the recording of deeds in the county wherein the land affected by it is situated; and no title to realty shall vest in the trustee in bankruptcy until the filing of such certificate."

Such a change in the provisions of the National Bankruptcy Act, while it might be beneficial in a few exceptional cases, would work, in the opinion of your committee, vastly greater harm in the great majority of instances, especially in involuntary proceedings, by affording opportunity and temptation for fraud. Your committee therefore recommends that the Association exert its influence against the adoption by Congress of this bill.

II. BILL OF LADING.

(a) *Hearings.*—The Senate Committee on Interstate Commerce had extensive hearings on the subject of national legislation on bills of lading February 16 and 17, March 1, 2 and 15, and April 20, 1912. The evidence taken by the Senate Committee covers 346 pages and is found in Senate Document No. 650, 62d Congress, 2d session. In view of the fact that this hearing completely covered every phase of the subject—historical, legal, constitutional, comparative, financial, commercial and economic—it was deemed unnecessary for your committee to hold public hearings on the question.

(b) *Report.*—The committee had before it Clapp Senate Bill 957, popularly known as the "Bankers Bill," and Pomerene Senate Bill 4713, popularly known as the "Uniform State Bill." The Senate Committee on Interstate Commerce (consisting of sixteen members) reported out neither of the bills, but a majority of a bare quorum of the committee reported out a bill of its own, bearing no resemblance to any legislation which had been proposed. A copy of this report is hereto attached, marked "Exhibit A," and made part hereof.

(c) *Substitute Bill.*—For the sake of greater brevity and to meet certain criticisms, Senator Pomerene introduced a substi-

tute bill known as Senate Bill No. 6810. There being still some criticisms thereof, Senator Pomerene agreed to make amendments thereto covering these criticisms and a copy of said Pomerene Senate Substitute Bill 6810, with said corrections is hereto attached marked "Exhibit B" and made part hereof.

(d) *Preference*.—In view of the fact that this Association has indorsed the Act to make uniform the law of Bills of Lading and same has been passed in the ten states of Connecticut, Illinois, Iowa, Louisiana, Massachusetts, Maryland, Michigan, New York, Ohio and Pennsylvania and Pomerene Substitute Bill 6810 is in substantial harmony therewith, your committee believes that this Association should express its preference for Pomerene Senate Substitute Bill No. 6810. Your committee does not believe that this Association should go further at this time and should leave open to the individual members any matters of detail as to which there may be differences of opinion.

III RECOMMENDATIONS.

In conclusion your committee recommends:

(1) That the American Bar Association oppose any attempt toward the repeal of the National Bankruptcy Act and exert every endeavor to defeat Sims House Bill No. 14093, to repeal the Bankruptcy Act.

(2) That the Committee on Commerical Law give further consideration to the other subjects relating to bankruptcy referred to in the foregoing report.

(3) That the American Bar Association express its preference for Pomerene Substitute Senate Bill No. 6810, on Bills of Lading in Interstate and Foreign Commerce, without committing the individual members of this Association as to any matters of detail as to which there might be differences of opinion.

Respectfully submitted,

FRANCIS B. JAMES, *Chairman*.

W. U. HENSEL,

ERNEST T. FLORANCE,

T. H. REYNOLDS,

FREDERICK L. GEDDES.

July 15, 1912.

EXHIBIT "A"

CALENDAR No. 651. SENATE No. 728.

BILLS OF LADING

MAY 10, 1912.—ORDERED TO BE PRINTED.

Mr. Clapp, from the Committee on Interstate Commerce, submitted the following

REPORT.

[To accompany S. 957.]

The Committee on Interstate Commerce, to whom Senate bill 957 was referred, having examined the same, make the following recommendation:

That all after the enacting clause be stricken out and the following inserted in lieu thereof:

SECTION 1. The words "bill of lading" when used in this act shall apply to a bill of lading for the transportation from a place in any state, territory, possession or District of the United States to any other state, territory, possession, or District of the United States, and from any place in any state, territory, possession, or District of the United States to any foreign country.

SEC. 2. That every carrier which by itself or its agent or servant, authorized to issue bills of lading, shall issue a bill of lading before the property described therein shall have been actually received and at the time under the actual control of such carrier to be transported, or who shall issue a second or duplicate bill of lading for the same property, in whole or in part, for which a former bill of lading has been issued and remains outstanding and uncanceled, without prominently marking across the face of the same the word "duplicate," shall be estopped as against the consignee, and every other person who shall acquire, by written assignment, transfer, or indorsement thereon, any such bill of lading in good faith and for value, to deny receipt of the property as described therein, or to assert that a former bill of lading has been issued and remains outstanding and uncanceled against the same property, as the case may be: *Provided*, That where a bill of lading is issued for property billed "shipper's load and count," indicating that the goods were loaded by the shipper and the description of them made by him, if the goods were so loaded voluntarily by the shipper only and the description made by the shipper only and

the carrier or its agent had no knowledge of such count or description, this act shall not apply.

SEC. 3. That any carrier who shall deliver the property described in a bill of lading, drawn to a consignee or order, without requiring surrender and making cancellation of such bill, or in case of partial delivery, indorsing thereon a statement of the property delivered, shall be estopped as against all and every person or persons who have acquired or who hereafter shall acquire, in good faith and for value, any such bill of lading, from asserting that the property described therein has been delivered, or partially delivered; and such carrier shall be liable to every such person for the damages which he may have sustained because of reliance upon such bill.

SEC. 4. That no carrier shall be liable under the provision of this act where the property is replevined, or removed from the possession of the carrier by other legal process, or has been lawfully sold to satisfy the carrier's lien, or in case of sale or disposition of perishable, hazardous, or unclaimed goods, in accordance with law or the terms of the bill of lading.

SEC. 5. That any alteration in a bill of lading after its issue and without authority from the carrier issuing the same, either in writing or note on the bill or lading, shall be void, but such bill of lading shall be enforceable according to its original tenor.

It is not considered necessary to make an elaborate report on this bill. For several years complaints have been numerous, and growing more so, based upon the fact that the agents of railroad companies would issue bills of lading when the company had not, in fact, received the goods. These bills of lading, attached to drafts, would oftentimes be used as a basis of credit, and their use in this manner forms a very large factor in our commercial transactions. In fact, some of the greater products could hardly be handled without the use of the bill of lading. The Supreme Court of the United States in *Friedlander v. Texas & Pacific Railroad* (130 U. S., 416) held that the carrier was not liable for the act of the agent in issuing the bill of lading where the carrier had not, in fact, received the goods.

Considerable testimony was taken upon this subject, which will be found in Senate Document No. 650, present session.

Two bills were pending before the committee, one being the one herewith reported, designed to simply establish a rule of evidence

making the carrier liable for the recitals in the bill when issued by an agent authorized to issue a bill of lading, the other covering that point and also relating to the obligations and rights of the transferers and transferees of bill of lading.

While several members of the committee, including the member making this report, favor the latter plan, yet it was felt that it might be better at this time and be more likely to result in present remedial legislation to report the bill dealing only with the rule of evidence, and therefore the committee has directed the chairman to report S. 957, with certain amendments set forth in the report.

“EXHIBIT B”

POMERENE SUBSTITUTE SENATE BILL No. 6810.

(As proposed to be corrected by Senator Pomerene.)

A BILL

RELATING TO BILLS OF LADING IN COMMERCE WITH FOREIGN NATIONS AND AMONG THE SEVERAL STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That bills of lading issued by any common carrier for the transportation of goods from a place in a state to a place in a foreign country or from a place in one state to a place in another state shall be governed by this act.

SEC. 2. That every bill must embody within its written or printed terms—

- (a) The date of its issue;
- (b) The name of the person from whom the goods have been received;
- (c) The place where the goods have been received;
- (d) The place to which the goods are to be transported;
- (e) A statement whether the goods received will be delivered to a specified person or to the order of a specified person;
- (f) A description of the goods or of the packages containing them; and

(g) The signature of the carrier.

An order bill shall have the words "order of" printed thereon immediately before the name of the person upon whose order the goods received are deliverable.

A carrier shall be liable to any person injured thereby for the damage caused by the omission from an order bill of any of the provisions required in this section.

SEC. 3. That a carrier may insert in a bill issued by him any other terms and conditions: *Provided*, That such terms and conditions shall not be contrary to law or public policy.

SEC. 4. That a bill in which it is stated that the goods are consigned or destined to a specified person is a straight bill.

SEC. 5. That a bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill. Any provision in such a bill that it is nonnegotiable shall not affect its negotiability within the meaning of this act.

SEC. 6. That order bills issued in a state for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however*, That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing.

SEC. 7. That when more than one order bill is issued in a state for the same goods to be transported to any place in the United States on the Continent of North America, except Alaska and Panama, the word "duplicate," or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his

failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however*, That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word "duplicate" thereon, or to impose the liabilities set forth in this section for failure so to do.

SEC. 8. That a straight bill shall have placed plainly upon its face by the carrier issuing it "nonnegotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgements of an informal character.

SEC. 9. That the insertion in an order bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

SEC. 10. That except as otherwise provided in this act, where a consignor receives a bill and makes no objection to its terms or conditions at the time he receives it, neither the consignor, nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provisions of the bill, shall be allowed to deny that he is bound by such terms and conditions so far as they are not contrary to law or public policy.

SEC. 11. That a carrier in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods, or, if the bill is an order bill, by the holder thereof, if such a demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;

(b) An offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is an order bill; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgement that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

SEC. 12. That a carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is—

- (a) A person lawfully entitled to the possession of the goods, or
- (b) The consignee named in a straight bill for the goods, or
- (c) A person in possession of an order bill for the goods, by the terms of which the goods are deliverable to his order; or which has been indorsed to him; or in blank by the consignee, or by the mediate or immediate indorsee of the consignee.

SEC. 13. That where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

Such request or information, to be effective within the meaning of this section, must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

SEC. 14. That except as provided in section twenty-nine, and except when compelled by legal process, if a carrier delivers goods for which an order bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good

faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

SEC. 15. That except as provided in section twenty-nine and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

SEC. 16. That any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill, shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

SEC. 17. That where an order bill has been lost or destroyed a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction; and upon the giving of a bond, with sufficient surety, to be approved by the court, to protect the carrier or any person injured by such delivery from any liability or loss incurred by reason of the original bill remaining outstanding, the court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees.

The delivery of the goods under an order of the court, as provided in this section, shall not relieve the carrier from liability to a person to whom the order bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

SEC. 18. That a bill, upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

SEC. 19. That no title to goods or right to their possession asserted by a carrier for his own benefit shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

SEC. 20. That if more than one person claim the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for non-delivery of the goods or as an original suit, whichever is appropriate.

SEC. 21. That if some one other than the consignee or the person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods, either to the consignee or person in possession of the bill or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

SEC. 22. That except as provided in the two preceding sections and in section twelve no right or title of a third person, unless enforced by legal process, shall be a defense to an action brought by the consignee of a straight bill or by the holder of an order bill against the carrier for failure to deliver the goods on demand.

SEC. 23. That when goods are loaded by a carrier such carrier shall count the packages of goods, if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading "Shipper's load and count," or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section,

said words shall be treated as null and void and as if not inserted therein.

SEC. 24. That when goods are loaded by a shipper, at a place where the carrier maintains an agency, such carrier shall, on written request of such shipper, and when given a reasonable opportunity by the shipper so to do, count the packages of goods if package freight and ascertain the kind and quantity if bulk freight, within a reasonable time after such written request, and such carrier shall not, in such cases, insert in the bill of lading "shipper's load and count," or other words of like purport indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

SEC. 25. That if a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to (a) the consignee named in a straight bill or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, for damages caused by the non-receipt by the carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

SEC. 26. That if goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner, and an order bill is issued for them, they can not thereafter, while in the possession of the carrier, be attached by garnishment or otherwise or be levied upon under an execution unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

SEC. 27. That a creditor whose debtor is the owner of an order bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill or in satisfying the claim by means thereof as is allowed at law or in

equity in regard to property which can not readily be attached or levied upon by ordinary legal process.

SEC. 28. That if an order bill is issued the carrier shall have no lien on the goods therein mentioned except for charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

SEC. 29. That after goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods themselves to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be an order bill.

SEC. 30. That an order bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

SEC. 31. That an order bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

SEC. 32. That a bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby. A straight bill can not be negotiated, and the indorsement of such a bill gives the transferee no additional right.

SEC. 33. That an order bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to order of such person, or if at the time of

negotiation bill is in such form that it may be negotiated by delivery.

SEC. 34. That a person to whom an order bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value; and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

SEC. 35. That a person to whom a bill has been transferred, but not negotiated, acquires thereby as against the transferor the title to the goods, subject to the terms of any agreement with the transferor. If the bill is a straight bill such person also acquires the right to notify the carrier of the transfer to him of such bill and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a straight bill the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time, with the exercise of reasonable diligence, to communicate with the agent or agents having actual possession or control of the goods.

SEC. 36. That where an order bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor

to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

SEC. 37. That a person who negotiates or transfers for value a bill by indorsement or delivery, unless a contrary intention appears, warrants—

- (a) That the bill is genuine;
- (b) That he has a legal right to transfer it;
- (c) That he has knowledge of no fact which would impair the validity or worth of the bill;
- (d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby.

SEC. 38. That the indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

SEC. 39. That a mortgagee or pledgee or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or warrant the genuineness of such bill or the quantity or quality of the goods therein described.

SEC. 40. That the validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress, or conversion, if the person to whom the bill was negotiated or a person to whom the bill was subsequently negotiated, gave value therefor in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress, or conversion.

SEC. 41. That where a person, having sold, mortgaged, or pledged goods which are in a carrier's possession and for which an order bill has been issued, or having sold, mortgaged, or

pledged the order bill representing such goods, continues in possession of the order bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

SEC. 42. That where an order bill has been issued for goods no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

SEC. 43. That, except as provided in section forty-two, nothing in this act shall limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this act, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

SEC. 44. That any person, who, with intent to defraud, issues or aids in issuing or procures the issuing, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who with intent to defraud violates or aids in any violation of any provision of this act shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

SEC. 45. That in any case not provided for in this act the rules of law and equity, including the law merchant, shall govern.

SEC. 46. First. That in this act, unless the context or subject matter otherwise requires—

“Action” includes counted claim, set-off, and suit in equity.

“Bill” means bill of lading governed by this act.

"Consignee" means the person named in the bill as the person to whom delivery of the goods is to be made.

"Consignor" means the person named in the bill as the person from whom the goods have been received for shipment.

"Goods" means merchandise or chattels in course of transportation or which have been or are about to be transported.

"Holder" of a bill means a person who has both actual possession of such bill and a right of property therein.

"Order" means an order by indorsement on the bill.

"Owner" does not include mortgagee or pledgee.

"Person" includes a corporation or partnership, or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee and to take as pledgee.

"Purchaser" includes mortgagee and pledgee.

"State" includes any territory, district, insular possession, or isthmian possession.

Second. A thing is done "in good faith" within the meaning of this act when it is in fact done honestly, whether it be done negligently or not.

SEC. 47. That the provisions of the act do not apply to bills made and delivered prior to the taking effect thereof.

SEC. 48. That the sections of this act are independent and severable, and the declaring of any section or sections unconstitutional shall not impair or render unconstitutional any other section.

SEC. 49. That this act shall take effect on the first day of January, nineteen hundred and thirteen.

SUPPLEMENTAL REPORT

OF THE

COMMITTEE ON COMMERCIAL LAW.

To the American Bar Association:

Your Committee on Commercial Law submits a supplemental report as follows:

On Wednesday, August 21, 1912, (Volume 48, Congressional Record, pages 12474-12478) the Senate of the United States by a unanimous vote passed Pomerene Senate Bill 6810 as a substitute for Senate Bill 957 relating to bills of lading in commerce with foreign nations and among the several states as set forth in our original report dated July 15, 1912, with the exception of Section 44, which as passed reads as follows, to wit:

“SEC. 44. That any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this act, shall be guilty of a misdemeanor, and, upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding \$5,000, or both.”

The bill has been sent to the House of Representatives and referred to the Committee on Interstate Commerce, but owing to the adjournment of Congress on Monday, August 26, it will not come up for consideration until Congress reconvenes in December, 1912. Respectfully submitted,

FRANCIS B. JAMES, *Chairman*,
W. U. HENSEL,
ERNEST T. FLORANCE,
T. H. REYNOLDS,
FREDERICK L. GEDDES.

REPORT
OF THE
COMMITTEE ON INTERNATIONAL LAW.

To the American Bar Association:

Your standing Committee on International Law herewith respectfully submits its annual report, briefly enumerating the treaties negotiated, confirmed or proclaimed by and the principal international incidents affecting the United States since the last annual report.

EXTRADITION WITH SALVADOR.

A treaty of extradition between the United States and Salvador, which was ratified by the President, June 8, 1911, as advised by the Senate, May 22, 1911, was duly proclaimed July 13, 1911. (See Sup. Am. Journal Intern. Law, Vol. 5, p. 300.)

EXTRADITION WITH FRANCE.

A treaty of extradition between the United States and France was ratified by the President, May 25, 1911, as advised by the Senate with amendment, April 5, 1909, and ratifications were exchanged June 27, 1911, and the treaty was proclaimed July 20, 1911. (See Sup. Am. Journal Intern. Law, Vol. 5, p. 243.)

ARBITRATION CONVENTION WITH BRAZIL.

An Arbitration Convention between the United States and Brazil was ratified by the President, March 1, 1909, as advised by the Senate January 27, 1909. It was ratified by Brazil January 2, 1911, and ratifications were exchanged July 26, 1911, and the convention was proclaimed August 2, 1911.

CANADIAN RECIPROCITY.

By the Canadian elections of September 21, 1911, the proposed reciprocity agreement with the United States was rejected by Canada. (See Am. Journal Intern. Law, Vol. 6, p. 213.)

CONVENTION FOR PRESERVATION AND PROTECTION OF
FUR SEALS.

A convention between the United States, Great Britain, Japan and Russia providing for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, was concluded July 7, 1911, and ratifications exchanged December 12, 1911, and the same was proclaimed December 14, 1911. (See as to convention *Sup. Am. Journal Intern. Law*, Vol. 5, p. 267.)

This prohibits to citizens of these nations pelagic sealing north of the 30th parallel of north latitude, but excepts from this the Indians and aborigines, protects sea otter 3 miles from shore, provides for patrol of waters frequented by the seal herds and for division of skins taken at the rookeries in certain proportion or for payment of the estimated value instead and permits the annual killing to be forbidden under certain circumstances.

TREATY WITH GREAT BRITAIN AS TO FUR SEALS.

A treaty between the United States and Great Britain for the preservation and protection of fur seals was concluded July 7, 1911, ratifications exchanged December 12, 1911, and the same was proclaimed December 14, 1911.

CONVENTION FOR PAN-AMERICAN CONFERENCE FOR DRAFTING
CODES OF PRIVATE AND PUBLIC INTERNATIONAL LAW.

A convention between the United States, Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panama, Cuba, the Dominican Republic, Peru, Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil and Chile, signed at Rio de Janeiro August 23, 1906, was ratified by the President February 8, 1908, as advised by the Senate on February 3, 1908, and proclaimed May 12, 1912. The conference provided for assembled at Rio de Janeiro June 24, 1912.

CONVENTION AS TO NATURALIZATION BETWEEN THE UNITED STATES AND NICARAGUA.

A convention between the United States and Nicaragua as to naturalization was concluded December 7, 1908. Ratifications exchanged March 28, 1912, and it was proclaimed May 10, 1912.

ARBITRATION WITH GREAT BRITAIN AND FRANCE.

The Arbitration Conventions negotiated between the United States and Great Britain and France, mentioned in the report of this committee for 1911, were considered by the Senate in executive session, and March 7, 1912, their ratification was advised by a vote of 76 to 3, but with material amendments and omissions and the following proviso:

Provided, That the Senate advises and consents to the ratification of the said treaty with the understanding to be made part of such ratification, that the treaty does not authorize the submission to arbitration of any question which affects the admission of aliens into the United States, or the admission of aliens to the educational institutions of the several states, or the territorial integrity of the several states or of the United States, or concerning the question of the alleged indebtedness or monied obligation of any state of the United States or any question which depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions commonly described as the Monroe Doctrine, or other purely governmental policy. (See Am. Journal Intern. Law, Vol. 6, p. 461.) (Also Sup. Am. Journal Intern. Law, Vol. 5, pp. 249 and 253.)

The treaties as thus modified have not yet been ratified.

COPYRIGHT CONVENTION WITH HUNGARY.

A copyright convention with Hungary has also been signed but not as yet ratified.

NATURALIZATION CONVENTION WITH COSTA RICA.

A convention as to naturalization between the United States and Costa Rica was signed March 29, 1912, has been ratified and your committee was advised by the Department of State, under date of June 7, 1912, that the same was about to be proclaimed.

RADIO-TELEGRAPHIC CONVENTION.

The International Radio-telegraphic Convention, signed at Berlin in 1906, has been recently proclaimed by the President.

INTERNATIONAL OPIUM CONFERENCE.

The United States participated with Germany, France, Great Britain, Italy, The Netherlands, Portugal, Russia, China, Japan, Persia and Siam in an opium conference held at the Hague from December 1, 1911, to January 23, 1912, and by its three plenipotentiaries executed at the latter date, an extended international convention carefully limiting, safeguarding and regulating the manufacture, sale and use of opium and its various compounds and derivatives, which convention was duly transmitted by the President to the Senate on May 31, 1912.

Your committee has obtained, and herewith submits, a memorandum from the Department of State as to

"RECENT EVENTS IN CHINA AFFECTING THE AMERICAN GOVERNMENT.

"On December 20, 1911, the American, British, French, German, Russian and Japanese representatives at Peking delivered, informally and unofficially through the consuls-general at Shanghai, an identic note to Tong Shao-yi and Wu Ting-fang, the respective heads of the representatives of the Imperial Government and the revolutionists, who were at that time in conference at Shanghai seeking an adjustment of their differences. This note, besides declaring adherence to the attitude of strict neutrality, called the attention of both parties to the desirability of arriving at an early understanding to end the conflict. This was the first concrete instance of concerted action by the six leading powers during the disturbances in China, though steps looking toward such common action had been taken previously at the initiative of the United States, when the various legations had agreed among themselves to advise their nationals in the affected districts to concentrate at such centers as were easily accessible to foreign troops or foreign men-of-war.

"The American Government recognizing the obligations connected with the rights secured by the protocol of 1901, signed on completion of the negotiations for settlement of the Boxer disturbances of 1900, consented to join the other leading powers

signatory thereto in maintaining an international force of troops to keep open the railway from Peking to the sea. Accordingly on January 9, 1912, orders were issued for the despatch of 500 troops from Manila to north China, and on March 6, following, seven hundred additional troops from the same source were ordered there. This last consignment was to assist in preserving order in Tientsin and in the possible military occupation of the railway. These measures were acquiesced in by the Chinese Government. In this connection it is of interest to note that the United States Asiatic Fleet, consisting of a score of vessels, several of which had consignments of United States marines on board, rendered efficient service in affording all possible protection to American life and property in the coast cities and riverine ports in the interior. The permanent Legation Guard at Peking, composed of a single company of marines, was increased early in October soon after the inception of the disturbances to over 300, which number was later raised to about 500. American marines were also landed at several ports, but often at the request of and always with the consent of the native authorities, and then only for brief periods.

"Early in the disturbances the governments concerned agreed upon an attitude of strict neutrality. In a note of February 3, 1912, in reply to an inquiry from the German Government, Secretary of State Knox declared for the maintenance of China's territorial integrity, reiterated the policy of non-interference, except by concerted action of the interested powers, and proposed that the powers should carry the principle of neutrality to the point of not permitting to either faction any loans. Copy of this note is attached hereto." (Copy of note is omitted.)

"The British and German Governments stated that the substance of the note was quite in accord with their own attitude, and Japan and Russia also concurred in the policy of common action for the protection of the common interests in China during the trouble."

TERMINATION RUSSIAN TREATY.

After much discussion and many popular and congressional expressions of dissatisfaction at the claim by Russia of the right to exclude from her territory all alien Hebrews, including American citizens, notwithstanding our treaty of Commerce and Navigation of 1832, the President of the United States, December 17, 1911, caused to be communicated to the Russian Government the official notification contemplated by the terms of the

treaty itself, whereby its operation would terminate on January 1, 1913. (See *Am. Journ. Intern. Law*, Vol. 6, p. 190.) This action was ratified by the Senate, concurred in by the House on December 20, and approved by the President December 21.

INTERNATIONAL JOINT COMMISSION.

An International Joint Commission pursuant to the treaty between Great Britain and the United States, signed January 11, 1909, as to matters of difference between the United States and Canada met at Washington January 12, 1912, and organized. (*Am. Journal Intern. Law*, Vol. 6, p. 193.)

SECRETARY KNOX'S VISIT TO THE LATIN REPUBLICS.

On February 23, 1912, the Hon. Philander C. Knox, Secretary of State of the United States, sailed on the cruiser *Washington* from Key West to visit the Latin American Republics, adjacent to the Carribbean Sea and the Gulf of Mexico, with a view to promote relations of good will between their several governments and peoples and those of the United States.

Our distinguished representative was received with honor and courtesy and it is believed was successful in materially advancing the friendly feelings and connections of his own country and her sister republics so desirable for both. He returned to the United States on the 17th of April. (See *Am. Journal Intern. Law*, Vol. 6, p. 493.)

DECLARATION OF LONDON.

Ratification of the Declaration of London revising the law of prize was advised by the Senate April 24, 1912. It should be mentioned that the parliament of Great Britain has not as yet adopted the rules of the declaration and the Government seems to have abandoned all hope of their adoption.

CUBA.

Owing to resistance to the constituted authorities in our sister republic of Cuba, the United States was compelled to dispatch

naval and military forces to that country, beginning with the sending of seven hundred marines on May 22. The resistance is not yet terminated, but it is believed that the Cuban Government with such assistance as our forces can render will soon restore order. Our government repeatedly assured the Cuban authorities that the forces sent were merely for the protection of life and property, and that no interference with the government or independence of Cuba is contemplated.

MEXICO.

March 2, 1912, the President of the United States issued a proclamation mentioning the forcible resistance to the authorities in certain portions of Mexico, admonishing all citizens and other persons to observe the laws as to the same and directing prosecutions for all violations thereof. (See Sup. to Am. Journal Intern. Law, Vol. 6, p. 146.)

On March 14, 1912, the President further issued a proclamation against the export to Mexico of arms or munitions of war pursuant to a joint resolution of Congress approved at the same date providing for such proclamation and establishing a penalty for violation of its requirements. (See Sup. to Am. Journal Intern. Law, Vol. 6, p. 147 and Am. Journal Intern. Law, Vol. 6, p. 475.)

At p. 477 the Journal cited points out that this joint resolution "introduces a profound change in the neutrality laws of the United States and enables the President to prevent the shipment of arms or munitions of war not merely to Mexico, but to any American country wherein conditions of domestic violence unfortunately exist and which are promoted by the use of arms or munitions of war procured from the United States."

NOTABLE JUDICIAL DECISIONS.

The following judicial decisions upon points of international law are deemed worthy of special mention:

THE HORICON RANCH CASE.

The Circuit Court of the United States for the Southern District of Texas, December 5, 1911, decided the case of the U. S. *vs.* The American Rio Grande Land & Irrigation Company. (See Am. Journal Intern. Law, Vol. 6, p. 478.)

An American company, owning about 50,000 acres in Texas, sought to develop it by constructing a pumping station on the Rio Grande and a canal and system of irrigation. The river was changing its bed so as to leave these structures far from its course. The company, in order to utilize its works, built an artificial channel diverting the river contrary to our treaty with Mexico, and to the injury of a large Mexican territory.

On the report of the engineers of the International Boundary Commission, the commissioners found the facts and reported that indemnity should be made for the wrong, but on account of the novelty of the case, submitted it to their several governments. The Secretary of State of the United States wrote to the Attorney General, advising the institution of a suit against the company to compel the restoration of the river channel and to compel the observance by United States citizens of the treaty with Mexico as a part of the supreme law of the land. Suit in equity was accordingly brought under the direction of the Department of Justice. The defendant company confessed judgment but claimed that restoration of the river channel had become impossible. The court ordered the defendant company to convey to a trustee for all the owners of Mexican lands damaged, all lands cast on the southern bank of the Rio Grande by the diversion and further that the defendant company pay to said trustee \$5000 for the benefit of such Mexican land owners and to the United States \$2000 for costs of the survey, and that the defendant company pay as a penalty to the United States \$10,000 and costs.

In *Herrera vs. U. S.*, 222 U. S. 558, it was held, January 15, 1912, that war makes the citizens or subjects of one belligerent enemies of the government, citizens and subjects of the other.

During the war with Spain all residing in Cuba, whether

Spanish or American subjects, were deemed enemies of the United States and their property, enemy's property, subject to seizure, confiscation and destruction.

That a claim for damages for the detention of a steamer found in Santiago harbor on the capitulation, cannot be sustained, the seizure being an act of war.

That the court of claims has no jurisdiction of such claim and that the right of Spanish subjects against the United States for indemnity for illegal seizure and detentions of property during the war of 1898 was taken away by the treaty of peace.

That there is a distinction between a seizure of private property of an enemy for immediate use, and the taking of such property as booty of war.

And the doctrines of the above case were followed and adhered to in *Diaz vs. U. S.*, 222 U. S. 574.

ADMINISTRATION BY CONSULS.

February 19, 1912, the Supreme Court of the United States in *Rocca vs. Thompson* (Am. Journal Intern. Law, Vol. 6, p. 473) affirmed the decision of the Supreme Court of California, holding that the right of the public administrator to letters of administration on the estate of an Italian citizen dying, with estate in California, is not replaced by the right of the Italian Consul under our treaty with Italy, containing a most favored nation's clause, because our treaty with the Argentine Republic provides in like case the consul shall have the right to intervene. The conclusion was reached that the right to "intervene" presupposes proceedings already instituted and that no abrogation of the right of local administration provided for by state laws was intended. This holding is contrary to 3 New York Supreme, 1 Alabama and 1 Massachusetts decisions and in accord with 1 New York surrogate and 1 Louisiana decision. (See Am. Journal of Intern. Law, Vol. 6, p. 473.)

The court did not find it necessary to decide whether the special provisions of the Argentine treaty, being reciprocal concessions, were available or not to citizens of Italy.

Your committee is impressed with the constant increase in

the intricacy and importance of the international relations of the United States and the value of and profound interest that must therefore attach to the principles of International Law which safeguard, define and control them.

All of which is respectfully submitted.

CHARLES NOBLE GREGORY,

JAMES O. CROSBY,

JOHN D. LAWSON.

THEODORE S. WOOLSEY,

Committee on International Law.

REPORT

OF THE

COMMITTEE ON OBITUARIES.

To the American Bar Association:

The Committee on Obituaries reports the names of members of whose deaths the committee has been notified since the last meeting, as follows, viz:

ARKANSAS.

MILES, OSCAR L. Fort Smith.
NORTON, N. W. Forest City.

CALIFORNIA.

DILLON, HENRY CLAY Los Angeles.

COLORADO.

STEELE, ROBERT W. Denver.
WHITELEY, RICHARD H. Boulder.

CONNECTICUT.

BLAKE, JAMES K. New Haven.

DELAWARE.

HIGGINS, ANTHONY Wilmington.

DISTRICT OF COLUMBIA.

WALTON, CLIFFORD S. Washington.

ILLINOIS.

COFFEEN, M. LESTER Chicago.
EVANS, ARTHUR F. Chicago.
PIERCE, EDWARD B. Chicago.
SMITH, PLINY B. Chicago.
STEVENS, JOHN S. Peoria.
ULLMANN, FREDERICK Chicago.

IOWA.

WRIGHT, CARROLL Des Moines.

KENTUCKY.

HARRIS, W. O. Louisville.

LOUISIANA.

BRICE, A. G. New Orleans.

LEAKE, WILLIAM W. St. Francisville.

POSEY, LLOYD New Orleans.

MAINE.

CLEAVES, HENRY B. Portland.

HAMLIN, CHARLES Bangor.

PEAKS, JOSEPH B. Dover.

WILSON, F. A. Bangor.

MARYLAND.

MORRIS, THOMAS J. Baltimore.

SPAMER, C. A. E. Baltimore.

STEUART, ARTHUR Baltimore.

MASSACHUSETTS.

DORR, DUDLEY A. Boston.

LOWELL, FRANCIS C. Boston.

MORSE, GODFREY Boston.

SWAN, WILLIAM W. Boston.

TYNG, STEPHEN H. Boston.

MICHIGAN.

BUNDY, McGEORGE Grand Rapids.

CHADBOURNE, THOS. L. Houghton.

DUFFIELD, HENRY M. Detroit.

HARMON, HENRY A. Detroit.

SMITH, HENRY C. Adrian.

MINNESOTA.

DODGE, WILLIS E. Minneapolis.

GJERTSEN, HENRY J. Minneapolis.

MISSISSIPPI.

McWILLIE, THOS. A. Jackson.

MISSOURI.

| | |
|---------------------------|-----------------|
| FISSE, WILLIAM E..... | St. Louis. |
| GANTT, JAMES BRITTON..... | Jefferson City. |
| MARLATT, HERBERT R..... | St. Louis. |
| NOBLE, JOHN W..... | St. Louis. |
| ROBERT, EDWARD S..... | St. Louis. |

NEBRASKA.

| | |
|------------------------|--------|
| GREENE, CHARLES J..... | Omaha. |
|------------------------|--------|

NEW JERSEY.

| | |
|----------------------------|----------|
| BORCHERLING, CHARLES | Newark. |
| DEPUE, SHERRERD | Newark. |
| LANNING, WILLIAM M..... | Trenton. |

NEW YORK.

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| JUDSON, CHARLES N..... | New York. |
| MATHEW, ROBERT | New York. |
| MONTGOMERY, WILLIAM S..... | New York. |
| MCCLEURE, DAVID | New York. |
| MCCOOK, JOHN J..... | New York. |
| NEAR, IRWIN W..... | Hornell. |
| PARSONS, HINSDILL | New York. |
| RIKER, SAMUEL | New York. |
| RUSSELL, WILLIAM H..... | New York. |
| RUTHERFORD, HARRY V..... | New York. |
| SCOTT, JAMES L..... | Saratoga Springs. |
| SMITH, NATHANIEL S..... | New York. |

OHIO.

| | |
|----------------------|-------------|
| JONES, RANKIN D..... | Cincinnati. |
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OREGON.

| | |
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| GLEASON, JAMES | Portland. |
| LINTHICUM, S. B..... | Portland. |
| MUIR, WILLIAM T..... | Portland. |

PENNSYLVANIA.

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| ELLIOT, FRANK S..... | Philadelphia. |
| HARBITY, WILLIAM F..... | Philadelphia. |
| LEAMING, THOMAS | Philadelphia. |
| PENNYPACKER, CHARLES H..... | West Chester. |

SOUTH DAKOTA.

BROWN, CHARLES W.....Rapid City.
TRIPP, BARTLETTYankton.

TENNESSEE.

LEA, OVERTONNashville.
PERCY, WILLIAM A.....Memphis.
WILLIAMSON, W. H.....Nashville.

WASHINGTON.

LOVEDAY, WALTER.....Tacoma.
TENNANT, ALBERT J.....Seattle.

WEST VIRGINIA.

MOLLOHAN, WESLEYCharlestown.

WISCONSIN.

JENKINS, JOHN J.....Chippewa Falls.
QUABLES, JOSEPH V.....Milwaukee.
TARRANT, WARREN D.....Milwaukee.

Respectfully submitted,
GEORGE WHITELOCK,
SELDEN P. SPENCER,
J. NELSON FRIERSON.

REPORT

OF THE

COMMITTEE ON LAW REPORTING AND DIGESTING.

To the American Bar Association:

Your committee renews the suggestion made in last year's report that in new compilations or revisions the statutes of all the states be classified and arranged according to a uniform plan, so that the same subject should be found under the same heading. It is true that there would be some inconvenience in departing from traditional classifications to which we have become accustomed, and the change could only be made gradually, but the advantage of uniformity among the states is well worth the effort of attainment. Modern business in this country requires that lawyers having extensive practice that is not merely local, should readily inform themselves of the laws of many states, and so closely are the various parts of the country allied in business and social affairs that it is important that the legislation of the different states should tend to uniformity both in plan and in substance. In preparing new digests and compilations it would be well, therefore, that the ideal of uniformity should be kept in mind. There is already a tendency, at least, towards uniformity in the digests recently published, and this tendency should be accelerated by conscious and well directed effort on the part of editors and legislative commissions engaged in preparing new compilations and digests of statistics, as it has been in the preparation of digests of decisions.

Another suggestion your committee wishes to make is that it would be well to have a digest prepared which should group together the provisions of the statutes of the several states upon important subjects of general interest and indicate what has been the judicial construction of these statutes in each state. The legislation in the different states on many subjects is very

similar and new legislation in one state is followed and copied in many others. The decisions of the courts of one state construing or applying these provisions throw light upon the construction and application of them in another. A statute adopted from another jurisdiction is taken with the construction already placed upon it there. It would be of great service, therefore, if a digest were prepared which should collect and group together the statutory provisions of all the states upon a number of important subjects of general interest, and state briefly how they have been construed in the courts of the several states and in the Federal Courts. It would add greatly to the value of such a work if it should indicate what has been the course of legislation and judicial decision on important topics in England, Canada, Australia and New Zealand. In all these countries there is the common heritage of the Common Law and a community with ourselves in the condition of life and business. The legislation of these countries is carefully considered, and in some cases it is more thorough and more progressive than our own. Valuable service has been rendered by journals and societies of comparative legislation, and it is perhaps through them and with their coöperation that the preparation of such a digest as we have referred to can best be accomplished. We have now in the digests of the National Reporter System, a table of statutes cited in the cases digested in each volume and references to the volume and pages in which these cases are to be found, but every volume must be looked at separately and in many cases there is nothing to be found but the citations of the statute without quotation or construction.

Still another suggestion we venture to make is that the volumes of the very useful Key-Number Series of the American Digests should retain the same divisions of sections and subsections as are found in the Decennial Digest. It is true that in many cases a section in the Key-Number Series contains only a few cases, so that little would be gained by dividing it into subsections, but it is also true that in many cases the sections occupy a page or more and any one searching for a point must read the whole section in an increasing number of volumes and much time

is lost which might be saved if the subsections were retained. If that were done one could tell at a glance whether any case on his particular subject was digested in the volume.

It would add still further to the usefulness of this digest if each section upon any topic of importance or novelty should contain a search-note giving cross references to state and other digests which do not have the same classification and also to encyclopedias, to the notes in annotation reports and to valuable articles in the law magazines. Some such cross reference to the state digests is desirable as long as there is great diversity of classification, and the references to annotations and special articles would often serve to give access to a thorough discussion of the whole subject under investigation.

Respectfully submitted,

EDWARD Q. KEASBEY, *Chairman*,
WILLIAM DRAPER LEWIS,
WILLIAM V. KELLEN,
NATHAN WILLIAM MACCHESNEY,
SIGMUND ZEISLER.

Committee.

July 15, 1912.

REPORT

OF THE

COMMITTEE ON PATENT, TRADE-MARK AND COPYRIGHT LAW.

To the American Bar Association:

At the last meeting of the Association President Taft in an impromptu address before our Association at Boston, referring to the bill for a single court of last resort in patent causes, suggested that the Commerce Court would do for that purpose. The proposition was wholly unacceptable to your committee. That a court which should have final jurisdiction of patent causes for the whole country must be made up of judges learned in the patent law was, of course, an indispensable requisite. That they should also be judges well equipped by knowledge and experience in the general law was also indispensable. The subject of a single court of last resort in patent causes had been discussed among patent lawyers for years before the present scheme was evolved. But it was assumed that if such a court were created it would be made up of eminent patent lawyers, and the patent bar were distrustful of such a court. It was long ago said that the practice of patent law "sharpens but not broadens a man," and the patent bar did not relish the idea of a court made up of lawyers without training or experience in the general field of the law, however eminent in the narrower field of a specialty. It was not until the present proposition to constitute a court from federal judges designated by the Supreme Court or its Chief Justice took form that this objection was removed.

The judges of the federal courts are the only judges in the land whose experience on the bench covers both the general and the patent law. To select from the whole body of those judges (more than a hundred in number) five every six years to constitute a single supreme court in patent causes is a simple and practicable way to create a court perfectly fitted for the exercise

of this important jurisdiction. In contrast with this the proposition to utilize the Commerce Court as a court of last resort in patent causes was wholly inadmissible. Your committee addressed a remonstrance to the President, of which a copy is annexed hereto, and circulated the same widely among the members of the Association most interested in the subject.

There was no occasion in this remonstrance to urge the need of some kind of court of final jurisdiction in patent causes. That was assumed by the President in his suggestion. The arguments of the paper relate wholly to the method of making up the court—the selection of the judges; and they cover that subject so fully that it would be superfluous to repeat them here.

It may be added that a bill was introduced in the House by Hon. William Sulzer during the present Congress for the creation of a court of last resort in patent causes in the same terms as the bill which your committee has been advocating during the many years of its efforts. A copy of that bill is also hereto annexed.

To all this we have only to add an earnest request for the approval of the Association of our efforts to secure the enactment of the law and the friendly coöperation of its members as they may have opportunity.

Respectfully submitted,

ROBERT S. TAYLOR, *Chairman*,
FREDERICK P. FISH,
LIVINGSTON GIFFORD,
MELVILLE CHURCH,
ROBERT H. PARKINSON.

A COMMUNICATION TO THE PRESIDENT

To the President, the White House, Washington:

The members of the Committee on Patent, Trade-Mark and Copyright Law of the American Bar Association beg leave to submit the following observations on the subject of the pending bill to create a United States Court of Patent Appeals to have final jurisdiction in patent causes. We have been working for the passage of this bill for ten years. At every annual meeting

of the Association we have reported progress and our efforts have been approved by the Association and we have been directed to continue them. The subject has attracted the interested attention of the country, and in particular of the bar and manufacturers and inventors. It is not too much to say that a widespread public sentiment has grown up in favor of it. It is now proposed to reject the bill and confer final jurisdiction in patent causes on the existing Court of Commerce. A just estimate of that proposal will require, first, a careful consideration of the exigency which calls for any change in the present final jurisdiction in the Circuit Courts of Appeals and then, of the merits of the plan embodied in the Association bill.

The exigency does not rest on any want of ability in the judges of the Circuit Courts of Appeals. They are, upon the whole, the ablest body of patent judges the world ever saw. The evils that require a remedy arise wholly from the division of final jurisdiction among nine independent courts. At the same time, they cannot be remedied by the mere concentration of jurisdiction in one court—any court that can pronounce a judgment. Out of the present situation there has grown up not only a diversity of decisions to be reconciled, but differences in the broad points of view from which patent questions are approached and decided; differences in the underlying principles upon which questions of invention and infringement and reissue are considered and decided—differences in the atmosphere of the courtroom, to use a simile which is appropriate, because these differences, while as intangible as differences of climate, are nevertheless as real; as every lawyer knows who has tried cases in a multiplicity of circuits. The patent law needs clarifying, systematizing and harmonizing along fundamental lines, which can be given to it only by a single court of last resort composed of judges of the highest fitness and the widest experience.

The Association bill was framed to meet this need. It provides for a court of five judges, of whom the presiding judge is to be appointed by the President and hold his office for life, as other judges. The others are to be designated by the Chief Justice of the United States from among the circuit and district judges,

two of them to sit for three years and two for six years. At the end of three years two are to be designated for six years to take the places of those designated at the beginning for three years; and after that two are to be designated every three years to take the places of those retiring. It would be the duty of the Chief Justice, which he would unquestionably recognize, to use the discretion vested in him to designate to these judgeships the ablest judges to be found on the bench of the circuit and district courts, having regard to the duties to be discharged. The court as finally organized would thus be made up by a triple process of selection and preparation. First, the selection by the President of the circuit and district judges from the whole body of lawyers in the country. Then the training of those judges during a number of years in the school of the federal bench, than which there is no better law school in the world. This training includes courses in the patent law. Then the final selection from among these of judges known to be strong in the patent law. It is not in the wit of man to conceive a plan more perfectly adapted to bring together in a court for the final decision of patent causes a group of judges of higher qualifications for the work. It needs no direction in the law to make it sure that the Chief Justice will seek in these designations to make his selections from different parts of the country from time to time, so that the court will be, on the whole, truly representative of all the people in that important sense in which all courts should be representative of the popular will and feeling.

The administration of the patent law affects every business interest in the land. It is impossible to deny the importance—the necessity, in fact—to a just and uniform administration of the law of a single court of last resort in that department. It is impossible to deny that it ought to be composed of as great judges as the country can produce. Patent law is a unique and intricate and difficult science. It rests almost wholly on the decisions of the courts. The statute is only a skeleton which the courts must transform into a living body. At the same time the court ought not to be made up of mere patent lawyers, however eminent in the profession. While the patent law is a system *sui generis*, it is never-

theless *law* and rests on the same broad principles that underlie all law in every department of jurisprudence. The judges of a court of last resort in patent cases ought to be, first, great judges in the large sense of those words; judges thoroughly equipped in the whole field of the law. It is such judges as these that the pending bill will bring together in the proposed court.

In the face of these incontestible facts what objection is it possible to urge against the proposed Court of Patent Appeals? None, except the cost of it. If it would cost nothing, nobody could possibly oppose it. It will not cost very much. If the President should see fit to appoint its presiding judge from among the circuit or district judges in office, it would contain no new judges. There would need to be some increase in their salaries, and there would be the salaries of the ministerial officers of the court—the clerk and the marshal and their assistants. But the judges would be the same men now in office and doing the same kind of work—deciding patent causes. It would be simply the concentration of the present work and jurisdiction of the nine United States Circuit Courts of Appeals in one court. It is impossible to suggest any other way in which such a radical and beneficial improvement can be made in the administration of the patent law at so little expense.

To confer that great jurisdiction on the Court of Commerce would be a contemptuous denial of our petition by Congress. "There's the Court of Commerce; it hasn't enough to do; take your cases there and be gone." It will be an injustice, an insult, to the whole body of patent lawyers; which is not so serious a matter to them as to their clients, who include all the manufacturers of the country and, less universally and directly, all the business men.

The suggestion that we can put up with the Commerce Court for a few years while its judges are qualifying themselves for the work in the hope of getting the ideal court later is the very thing we cannot afford to do. Right now—at the beginning of the new jurisdiction—is when we need the master hands. There is constructive work to do of the highest importance, which, although it will be done by the slow process of judicial law build-

ing, is as truly creative as legislation. Twenty-five years hence, when the unified, harmonized, systematized patent law shall have taken form it will not be so indispensable that only the great men in that field shall hold the court. But at this inceptive, creative stage of its existence it needs the largest, wisest, most experienced judges that can be called to the work to sit on its bench.

There are members of Congress who meet all these arguments with the simple statement that they are opposed to the creation of any more federal courts. Such a man is unable to conceive the greatness of his own country. Taking together the vast increase of population and business in the United States in recent years, and the extension of the activities of the federal government into new fields, it is self-evident that there must be some enlargement of the federal judicial machinery, if the laws are to be adequately administered. And if there are to be any new courts, there is no other for which such cogent reasons exist as for the United States Court of Patent Appeals.

We are so persuaded of the soundness of these views that we prefer, if Congress and the President will not give us this court now, to take nothing and wait.

But if Congress and the President will not give us the Court of Patent Appeals and will not let us take nothing and wait, then we have this suggestion to make: Abolish the Commerce Court and organize another to take the two jurisdictions of patent appeals and commerce appeals with a name comprehending both jurisdictions, such as "the United States Court of Appeals." The creation of such a court would give us a series of federal appellate tribunals of systematic and congruous names and jurisdictions—the United States Circuit Courts of Appeals for cases which can properly be placed in the hands of these independent courts; the United States Court of Appeals for those cases which are so numerous that the Supreme Court cannot take them, but in which a single court of final appeal is indispensable to just administration; and the Supreme Court over all. We shall then be meeting the present emergency, not by a temporary makeshift, but by an amendment of our judicial system designed for all time to come. The United States Court of Appeals could be organized at the

outset with five judges, and with no jurisdiction except patent cases and commerce cases and the field of its jurisdiction and the number of its judges enlarged later as occasion might require. But by all means let us not meet the present exigency by any sort of patchwork legislation, but do something while we are about it which will fit into a symmetrical and permanent system of jurisprudence.

This we will do by creating the United States Court of Patent Appeals now as provided for by the pending bill. An estimate of the work it will have to do, based on carefully compiled statistics shows that it will take all the time and strength of five judges from the day the court opens. To have five such judges, coming by turn from various sections of the country—two out and two in every three years—in continual session, will provide perfectly and for all time for that great department of jurisprudence. It will be not only a court deciding cases with the highest wisdom given to men, but a perpetual commission for the study and betterment of the patent law.

Since the foregoing address was prepared some interesting facts have come to the knowledge of the committee.

On April 2, 1883, and during the first session of the 50th Congress, there was introduced in the House of Representatives by Mr. Raynor, as number 9084, "a bill to establish a Court of Patent Appeals of the United States." This bill was read twice, referred to the Committee on the Judiciary, and ordered to be printed. A like bill was offered in the Senate Committee by Senator Gorman.

The occasion of the introduction of these bills was, primarily, the congestion of cases before the Supreme Court of the United States, and the great length of time elapsing before a decision could be reached in said Court, with the result that the term of a patent largely melted away before infringement could be effectively prevented or finally stopped.

Letters of endorsement of the bill were written by Chief Justice Morrison R. Waite, Associate Justices Samuel P. Miller and Joseph P. Bradley, and by Hon. Benton J. Hall, then Commissioner of Patents, and the bill was endorsed and urged by the

Patent Bar Association of Washington, a predecessor of the present Patent Law Association of Washington. It was also endorsed and urged by the National Electric Light Association, and others.

When the matter came before the Judiciary Committee of the Senate, however, Senator Edmunds stated in substance that the United States Circuit Courts of Appeals were about to be created; that they would relieve the Supreme Court; and that while it was recognized that the ideal plan would be to provide a separate Court of Patent Appeals, it was deemed advisable first to test the working of the Circuit Courts of Appeals, and later to establish the Court of Patent Appeals, should it then seem desirable.

The act creating the United States Circuit Courts of Appeals was approved March 3, 1891.

While a more prompt final decision in patent causes was thus rendered possible, patent litigants lost the benefit of a single final appellate tribunal whose decisions were controlling throughout the entire country, and the present serious difficulty was created under which separate suits in each of the nine circuits and in the District of Columbia became necessary, in order finally to establish a patent in all parts of the country. This, together with the further difficulty that in a considerable number of instances the decisions of the Circuit Courts of Appeals in different circuits have been diametrically opposite upon the same claims and same state of facts, has made evident the necessity of a single final appellate tribunal for the determination of patent causes.

Thus, though the manufacturers, inventors and attorneys of the country have for twenty-four years sought to have created a final Court of Patent Appeals, which shall insure to the owners of patents the protection and benefit which the patent laws contemplate, it is proposed now to make the jurisdiction of patent causes a mere appendage—an incident—to the present jurisdiction of the Commerce Court, which itself is not, except as to a few minor matters, an appellate court.

If it should be said that the great men who were instrumental in organizing the nine United States Circuit Courts of Appeals and vesting them with final jurisdiction in patent cases ought to have foreseen the confusion which would arise from their con-

flicting decisions, this important fact should be borne in mind: It was naturally assumed at the outset that those courts would be able to maintain substantial harmony in their decisions by the application of the principle of comity, as had been done among the circuit courts; and there was an attempt to do this. But in the first case in which the question was presented, the court for the Seventh Circuit held that while comity had served a useful purpose among the circuit courts, a court of final jurisdiction must stand on its own judgment; and the decision was affirmed by the Supreme Court.

So after the lapse of twenty-four years we have come back again to the point at which the merits of Mr. Raynor's bill to establish a Court of Patent Appeals of the United States, and approved by the Chief Justice and Justices Miller and Bradley, reappear in new light.

Respectfully submitted,

ROBERT S. TAYLOR, *Chairman.*

FREDERICK P. FISH,

MELVILLE CHURCH,

ROBERT H. PARKINSON,

LIVINGSTON GIFFORD,

Committee.

A BILL

TO ESTABLISH A UNITED STATES COURT OF PATENT APPEALS,
AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created a United States court of patent appeals, which shall consist of five judges, of whom four shall constitute a quorum, and shall be a court of record with jurisdiction as is hereinafter limited and established. Such court shall prescribe the form and style of its seal and the forms of its writs and other process and procedure as may be conformable to the exercise of its jurisdiction as shall be conferred by law. The President shall have power, by and with the consent of the Senate, to appoint the

marshal of the court, who shall have the same powers and perform the same duties under the regulations of the court as are now provided for the marshal of the Supreme Court of the United States, so far as the same may be applicable. The court shall also appoint a clerk, who shall have the same powers and perform the same duties now possessed and performed by the clerk of the Supreme Court of the United States, so far as the same may be applicable. The salary of the marshal of the court shall be two thousand five hundred dollars a year, and the salary of the clerk shall be five thousand dollars a year, both to be paid monthly in twelve equal payments. The costs and fees now provided by law in the Supreme Court of the United States shall be the costs and fees in the United States court of patent appeals; and the same shall be collected, expended, accounted for, and paid over to the Treasury Department of the United States in the same manner as is provided by law in respect to the costs and fees in the Supreme Court of the United States. The court shall have power to establish all needful rules and regulations for the conduct of its business within its jurisdiction as conferred by law.

SEC. 2. That the President of the United States, by and with the advice and consent of the Senate, shall appoint a chief justice of said United States court of patent appeals, and as vacancies occur shall in like manner appoint others to fill such vacancies from time to time. The acceptance of that office by a judge of the circuit court or district court of the United States shall vacate his office as circuit or district judge.

SEC. 3. That upon the taking effect of this Act the Chief Justice of the Supreme Court of the United States shall designate from among the judges of circuit and district courts of the United States four judges to sit as associate judges of the United States court of patent appeals, two of them to sit for three years from the first day of the first term thereof, and two of them to sit for six years from the first day thereof, as associate judges of the same court. And after that, as the periods expire for which such designations shall have been made, the Chief Justice of the Supreme Court of the United States shall fill the vacancies thus occurring by designation of the same or other judges from among the

judges of the circuit courts and the district court, of the United States, to sit for periods of six years each. In case of the death, resignation or disability of any associate judge of the said court, or of his resignation of his seat in said court, the Chief Justice of the Supreme Court shall designate another judge of a circuit court or a district court of the United States to sit for the unexpired period for which his predecessor had been designated. The designation of a judge of the circuit or district court of the United States to sit as associate judge of the United States court of patent appeals must be with his consent, and his service in that court shall not vacate his office as judge of the circuit court or district court, as the case may be.

SEC. 4. That a term of the United States court of patent appeals shall be held annually at the city of Washington, beginning on the second Monday of October in each year, and the same may be adjourned from time to time as the court shall order. If at any time for the meeting of the court a quorum of the judges shall not be present, the judges present may adjourn the court, and, if necessary, adjourn again from time to time until a quorum appear. If at any sitting of the court the chief justice shall be absent, the associate judge senior in commission as judge of the circuit court of the United States, or senior in age in case of commissions of even date, shall preside. If no judge of a circuit court shall be present, the associate judge senior in commission as a judge of a district court of the United States, or senior in age in case of commissions of even date, shall preside. Until it shall be otherwise provided by Congress the sessions of the court shall be held in a building or rooms to be provided by the marshal of the District of Columbia under the direction and approval of the Attorney-General of the United States. The court shall by order authorize its marshal to employ such deputies and assistants for himself and the clerk of the court and such criers, bailiffs and messengers as the business of the court shall require, and to pay the salaries of such employees at rates of compensation not exceeding those paid for similar services in the Supreme Court of the United States, and to pay all other necessary incidental expenses of the court. The chief justice and each of the associate

judges shall be entitled to employ a clerk, whose salary, at a rate not exceeding that allowed the clerks of the Chief Justice and Associate Justices of the Supreme Court, shall be paid as part of the expenses of the court. The court shall have power, in its discretion, to appoint a reporter and to fix by order his salary or other compensation for a sum not to exceed three thousand dollars annually and direct the form and manner of the official publication of its decisions.

SEC. 5. That the chief justice of the United States court of patent appeals shall receive a salary of ten thousand dollars per year. The circuit judges of the United States sitting as associate judges of the same court shall each receive the salary allowed him by law as a circuit judge, and in addition thereto, during the time of his service as associate judge of the United States court of patent appeals, but not longer, such additional sum as will make his entire compensation during that service nine thousand five hundred dollars per annum. The district judges sitting as associate judges of the United States court of patent appeals shall each receive the salary allowed to him by law as district judge, and in addition thereto, during the term of his service as associate judge of the United States court of patent appeals, but no longer, such additional sum as will make his entire compensation during that service eleven thousand dollars per annum. All the said salaries shall be payable in twelve equal monthly installments. The time during which any judge shall serve in said court shall be deemed continuous service with that in any other court of the United States, before or after such service within the meaning and intent of section seven hundred and fourteen of the Revised Statutes. The additional compensation received by a circuit or district judge while sitting as associate judge of the United States court of patent appeals shall not be taken into account in determining the amount to be received by him after retirement.

SEC. 6. That the United States court of patent appeals shall have jurisdiction to hear and determine appeals and writs of error from final judgments and decrees in the circuit courts of the United States in cases arising under the laws of the United States relating to patents for inventions, and from final judg-

ments and decrees in cases arising under the laws of the United States relating to patents for inventions rendered by any other court having jurisdiction under the laws of the United States to hear and decide such cases in the first instance: *Provided, however,* That it shall have no jurisdiction in cases originating in the Court of Claims. All such appeals shall be taken within six months after the entry of the order, judgment or decree sought to be reviewed. The practice, procedure and forms to be observed in the taking, hearing and determination of such appeals and writs of error shall conform to the practice, procedure and forms observed in like cases in the Supreme Court of the United States, subject to such rules and regulations as shall be prescribed by the court.

SEC. 7. That whenever, by an interlocutory order or decree in a circuit court of the United States, or other court having jurisdiction under the laws of the United States to hear and decide in the first instance cases arising under the patent laws, in a case in which an appeal may be taken from the final decree of such court to the United States court of patent appeals, an injunction or restraining order shall be granted, or refused, or continued, or vacated, or modified, or retained without modification after motion to modify the same, an appeal may be taken from such order or decree by the party aggrieved to the United States court of patent appeals: *Provided,* That the appeal must be taken within thirty days from the service of the notice of entry of such order or decree; and it shall take precedence in the appellate court; and the proceedings in other respects in the court below shall not be stayed unless otherwise ordered by that court, or the United States court of patent appeals, or a judge thereof, during the pendency of such appeal.

SEC. 8. That the chief justice and the associate judges of the United States court of patent appeals shall each exercise the same powers in term and vacation in the allowance of appeals, supersedeas orders and other matters incidental to the jurisdiction and business of the court as are now exercised by the Chief Justice and Associate Justices of the Supreme Court of the United States in relation to the business and jurisdiction of that court.

SEC. 9. That the decisions of the United States court of patent appeals in all cases within its appellate jurisdiction shall be final, except that it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such case to be certified to it for its review and determination, with the same power and authority in the case as though it had been carried by appeal or writ of error from the trial court directly to the Supreme Court.

SEC. 10. That whenever any case shall have been certified from the United States court of patent appeals to the Supreme Court of the United States, by certiorari or otherwise, it shall be, upon its determination by the Supreme Court, remanded to the circuit court of the United States or other court in which it originated for further proceedings to be taken in pursuance of such determination. And in every case determined by the United States court of patent appeals upon appeal or writ of error the case shall be remanded to the circuit court of the United States, or other court from whence it came, for further proceedings to be taken in pursuance of such determination.

SEC. 11. That all appeals and writs of error in cases in which appellate jurisdiction is by this Act conferred upon the United States court of patent appeals which shall have been pending without hearing in the United States circuit courts of appeals or other courts of appellate jurisdiction for less than three calendar months prior to the taking effect of this Act shall be transferred from such circuit court of appeals or other courts to the United States court of patent appeals and be heard and determined in that court as though they had been taken there from the trial courts by appeal or writ of error without further payment for certifying the record or any new or additional docket or calendar fees; all other appeals and writs of error in cases in which appellate jurisdiction is by this Act conferred upon the United States court of patent appeals which shall be pending in the United States circuit courts of appeals or other courts of appellate jurisdiction at the time of the taking effect of this Act shall remain and be heard and determined by the courts in which they may be pending, respectively, as though this Act had not been passed.

SEC. 12. That after the taking effect of this Act no appeal or writ of error shall be taken from any circuit court or other court of the United States to any United States circuit court of appeals or other appellate court in any case in which an appeal or writ of error may be taken to the United States court of patent appeals under the provisions of this Act.

SEC. 13. That all laws and parts of laws inconsistent with the provisions of this Act are hereby repealed.

SEC. 14. That this Act shall take effect and be in force six months after its enactment.

REPORT

OF THE

COMMITTEE ON INSURANCE LAW.

To the American Bar Association:

Your Committee on Insurance Law respectfully report:

The Association has twice hitherto, once at the Detroit meeting in 1909, and again at the Boston meeting in 1911, adopted the recommendation of your committee endorsing a bill providing for the appointment of a commission to prepare an insurance code for the District of Columbia. We said in our 1911 report:

“The purpose of this bill was and is not only to secure for the District of Columbia, where the insurance laws are said to be the worst in the United States, an adequate insurance code under which the patrons and policyholders of insurance companies shall be protected, and under which legitimate underwriting can also be protected and the illegitimate and wild-cat insurance schemes stamped out of existence, but a code which, when enacted by Congress, will serve as a model for the several states. There are no two opinions about the necessity for such legislation as applied to the District of Columbia, nor concerning the desirability of an insurance code uniform throughout the country.”

This measure has the support of the Insurance Department of the District of Columbia, the Commissioners of the District of Columbia, and was favorably reported by the House Committee on the District of Columbia and its passage was recommended. The bill was introduced in the Senate by Senator Bulkeley of Connecticut, and upon his motion the Senate of the United States shortly before the Chattanooga meeting of 1910, passed a resolution authorizing and directing the Committee on the District of Columbia, by subcommittee or otherwise, “to prepare a code of laws for the regulation and control of insurance companies doing business within the District of Columbia.” This committee had begun its work, when the terms of two of its

members, Senators Bulkeley and Burkett, expired, and it seemed to be necessary that the Senate should again take action on this subject.

During the past winter a majority of your committee presented the matter, together with the recommendation of the Association, to numerous Senators, who promised to support the plan; and the Chairman of the Senate Committee on the District of Columbia agreed to introduce a resolution authorizing insurance reform to be undertaken by the preparation of an insurance code for the District of Columbia. Afterwards the situation of affairs in the Senate became, in the opinion of Senator Gallinger, Chairman of the Senate Committee on the District of Columbia, such as to prevent the accomplishment of anything in that direction during the present session of Congress. We are, nevertheless, confident that at the opportune time in the near future, we shall be able to get this important and greatly needed reform initiated.

Your committee ask that they be again instructed to urge upon Congress the enactment of the bill endorsed at the Detroit session of the Association, or its equivalent, and that they be authorized to coöperate with the Senate and House Committees on the District of Columbia to secure the preparation of an insurance code for the District, with a view to its ultimate adoption in the several states.

Respectfully submitted,

RALPH W. BRECKENRIDGE, *Chairman*,
RODNEY A. MERCUR,
WILLIAM H. BURGESS,
S. O. LEVINSON,
A. I. VORYS.

REPORT
OF THE
COMMITTEE ON UNIFORM STATE LAWS.

To the American Bar Association:

The Committee on Uniform State Laws respectfully reports:

At the last meeting of the Conference of Commissioners on Uniform State Laws held at Boston, Mass., August 23-28, 1911, three uniform acts were completed and recommended for adoption, viz., an Act Relating to and Regulating Marriage and Marriage Licenses; and to Promote Uniformity between the States in Reference thereto; a Uniform Child Labor Law. A third act is provided for by a recommendation urging upon the different states that have not done so to secure the adoption of food laws in strict conformity with the Federal Food and Drugs Act of 1906.

THE UNIFORM MARRIAGE LAW.

Briefly, this act leaves to each state the qualifications of persons who may celebrate the marriage ceremony. It requires at least two competent witnesses. The forms of the ceremony may differ but the parties must declare that they take each other as husband and wife. No marriage may take place until a license has been obtained. Application for license must be made at least five days before it may issue, excepting in extraordinary cases. The issuing of the license is hedged about by careful restrictions so as to identify the parties and to secure consent of guardians where they are under the marriageable age of consent. Any marriage contracted in violation of the provisions of the act as regards the celebration of the ceremony before a duly authorized person, or in accordance with the customs and rules of any religious society, denomination or sect, in the presence of at least two persons, shall be null and void; provided that no marriage shall be void by reason of want of authority in the officiating person. A marriage in other respects lawful, when it is consummated with the full belief on the part of the persons married

that they had been lawfully joined in marriage, will be valid; and no marriage will be considered void by reason of a license having been issued without the consent of a parent, or by a person not having jurisdiction, or by reason of any omission of form, if the marriage is in other respects lawful. Where parties have been married in accordance with the forms provided and have lived uninterruptedly as husband and wife for a period of one year, or until the death of either of them, it shall be deemed that the license has been issued as required by the act.

The salient points of this act, it will be seen, are in the requirement of a license, the requiring of a five days' interval between the application for the license and its issue, and the abolition of common law marriages. The note to Section 23 shows that common law marriages have been abolished in some twelve or thirteen states. The tendency of the best thought is to approve of such abolition. The tentative draft of the act may be found in the proceedings of the Association for the year 1910 at page 1130. However, it is thought best to give the act in its completed form with the annotations as an appendix to this report. As the subject is one of extreme importance, it is hoped by the committee that the Association will set its approval upon the work of the Conference of Commissioners, which has upon it the marks of several years of careful study. An analysis of the proposed uniform act by Professor Ernst Freund will be found in 24th Harvard Law Review, page 548.

THE CHILD LABOR ACT.

This act was drafted by a special committee of the Conference of Commissioners, of which Hollis R. Bailey, Esq., of Massachusetts, was Chairman. It is in some respects a composite of the existing laws on the subject of all of the states, but is considered to be an improvement upon them, and it may well be approved as the standard act. The humanitarian feeling which has led to legislation against the employment of children of tender years in industrial work has influenced public sentiment in all of the states, and no doubt the uniform act will be closely followed by the various legislatures that may give consideration to the problem hereafter. This act also was printed in tentative

form in the report of the American Bar Association for 1910, page 1154. It is given in its perfected form in the appendix.

THE PURE FOOD ACT.

The conclusions of the committee that the Federal Government in the several states "can well continue the present practice of using the food standards published by the United States Department of Agriculture" and, therefore, recommending the adoption by the various states of food laws "in strict conformity with the Federal Food and Drugs Act of 1906," should receive the approval of this Conference. It has been said that the laws of some of the states are more "up-to-date" than the National Pure Food Law, but the advantage of a uniform law throughout the country is so obvious that any defects that may be found in the Federal Act should be the object of amendment of that act, rather than of segregated efforts by the different states which are likely to produce confusion and uncertainty.

STATISTICS.

The following statistics show the progress of the movement for uniformity of legislation:

The negotiable Instruments Act is now the law in forty states, territories, possessions and the District of Columbia; the Warehouse Receipts Act, in twenty-four; the Sales Act, in ten; the Stock Transfer Act, in five; the Bills of Lading Act, in eight; the Foreign Wills Act, in six; the Divorce Act, in three; the Family Desertion Act, in four; Child Labor Act, in one.

All of the states, territories and possessions of the United States are now represented in the Conference either by virtue of legislative action or by the exercise of the Governors' discretion.

RESOLUTIONS.

Your committee recommends the adoption of the following resolutions:

1. *Resolved*, That the American Bar Association approves of the act prepared by the Conference of Commissioners on Uniform State Laws, entitled "An Act Relating to and Regulating Mar-

riage and Marriage Licenses; and to promote Uniformity between the States in Reference thereto."

2. *Resolved*, That the American Bar Association approves the draft of an act, entitled "An Act to Regulate the Employment of Children and to make Uniform the Laws Relating thereto," prepared by the Conference of Commissioners on Uniform State Laws.

3. *Resolved*, That the American Bar Association approves of the conclusions of the Conference of Commissioners on Uniform State Laws that all of the states should enact legislation embodying the provisions of the Federal Pure Food and Drugs Act of 1906.

4. *Resolved*, That these acts, together with the other acts heretofore approved by the Association, be recommended for adoption by all of the states that have not yet adopted them.

Respectfully submitted,

WALTER GEORGE SMITH, Pennsylvania, *Chairman*.

MINORITY REPORT OF FREDERICK G. BROMBERG.

The undersigned dissents from the report of the Committee on Uniform State Laws upon "Uniform Marriage Law," so far as it recommends it, with the provisions abolishing common law marriage. The writer is the member who proposed, at the Conference, the adoption of provisions that would render parties to marriage contracts, not entered into in compliance with the requirements of the proposed Uniform Act, incapable of inheriting from each other; but would leave the status of the children undisturbed, both as to legitimacy and as to rights of inheritance.

Professor Ernst Freund refers to my proposition in his article upon the proposed law as printed in the Harvard Law Review, Volume 24, at pages 548-549.

The undersigned asserts, that there was no evidence before the commission to show that "the tendency of the best thought" is to approve of the abolition of common law marriages. On the contrary it was admitted that up to this time not more than thirteen states had taken that step which is assimilative with ideas derived from social conditions of Europe, where distinctions of rank exist and illegitimacy is not considered a disgrace. It is foreign to the American commonwealth in which all honest women are equal without regard to social status.

It will be remembered that Boswell, the distinguished biographer of Dr. Johnson, has put on record his opinion that he would rather be the by-blow of a gentleman than the son of an honest peasant. Such are the ideas which are attempted to be imported into American legislation by this bill; but the writer does not believe that the attempt will ever succeed, because they violate American traditions and American civilization.

Therefore, the undersigned respectfully dissents from the committee's recommendation of the adoption of the Uniform Marriage Laws as reported by the Conference of Commissioners on Uniform State Laws, for the reasons above stated, and for the further reason that the proposed law ruthlessly disregards the rights of defenceless and innocent children.

Respectfully submitted,

FREDERICK G. BROMBERG.

APPENDIX

AN ACT

RELATING TO AND REGULATING MARRIAGE AND MARRIAGE LICENSES; AND TO PROMOTE UNIFORMITY BETWEEN THE STATES IN REFERENCE THERETO.

[Defining the essential elements of a marriage contract; prescribing the manner of contracting marriages; requiring the consent of parents or guardians of minors; requiring a marriage license in all cases; providing for the issuance thereof, the recording thereof, the form thereof, and the form, delivery and recording of the certificate of marriage; imposing penalties for solemnizing marriages without a license, or without authority of law, for refusing to return or record the certificate of marriage, for refusal or neglect by any marriage license clerk of the duties prescribed by this act; providing that a certified copy of the record shall be *prima facie* evidence of any marriage; prohibiting common law marriages; providing for the legitimation of children by *ex post facto* marriages; requiring returns by marriage license clerks to the

of this state; fixing the fees of marriage license clerks; and repealing, consolidating, and extending existing laws in relation to these subjects. (1)]

1. The constitutions of all the states excepting the New England States, North Carolina and Mississippi, contain the following provision: "No Bill shall contain more than one subject which shall be (clearly) expressed in its title." Some of the states omit the word "clearly." The purpose of such provision is to prevent the joining together of several independent and incongruous subjects, or matters, of which the title gives no intimation. Such provisions do not, however, prohibit the legislature from adopting by a single act a code or compilation of laws. Therefore, if the title fairly indicates the general subjects of the act, is comprehensive enough to cover all the provisions thereof, and is not calculated to mislead either the legislature or the public, it is sufficient. It would seem, then, that the general title above given, to wit, "An Act Relating to and Regulating Marriage and Marriage Licenses," is sufficiently indicative of all the provisions of this act. With one exception; namely, the section relating to the legitimising of children by an *ex post facto* marriage. If it be decided that such provisions are not germane or cognate to the phrase "Relating to and regulating marriage," then the title to the act would, *pro tanto*, be defective. Therefore, it was deemed advisable to present the two forms of title. If the general title alone be adopted, there would be the possibility of objection that it did not sufficiently indicate the intention of the act to deal with the question of legitimacy and illegitimacy of children; but if such purpose be expressed in the foregoing synopsis of the provisions of the act, then the only objection to the Sections relating to legitimacy or illegitimacy of children would be that they were not germane or cognate to the subject of marriage. Such an objection is more easily answered than would be an objection to the indefiniteness of the title. The question of sufficiency or insufficiency of title is fully discussed in 26 Amer. and Eng. Encyc. (2d Ed.), pp. 572-590.

SECTION I. Be it enacted, etc., That marriage may be validly contracted in this state only after a license has been issued therefor, in the manner following:

1. Before any person authorized by the laws of this state to celebrate marriages (1) (and hereinafter designated as the officiating person), by declaring in the presence of at least two (2) competent (3) witnesses other than such officiating person, that they take each other as husband and wife; (4) or,

2. In accordance with the customs, rules and regulations of any religious society, denomination or sect to which either of the parties may belong, (5) by declaring in the presence of at least two competent witnesses, that they take each other as husband and wife (6).

1. This leaves to each state the qualifications of the persons who may celebrate the marriage ceremony.

2. The number of witnesses required varies in different states—varying from one to three. The majority rule of two has been adopted.

3. The original report of the committee required “adult” witnesses. The Conference substituted the word “competent,” being of the opinion that minors are as competent as parties *sui juris*.

4. A large majority of the states which have legislated upon the subject of mode or form of ceremony, require as an essential to the marriage contract that the parties shall “declare in the presence of witnesses that they take each other as husband and wife.”

5. Thirty-seven states provide for marriage ceremonies according to the customs, rules and regulations of Quakers, and other religious societies. Such ceremonies are in a sense merely marriage contracts in the presence of witnesses, without being performed by or before an officiating person. One of the chief purposes of this act being the procuring of a license in proper legal form, and the registration of said license, it is, of course, immaterial whether the marriage ceremony be performed by a minister or civil official, or in the presence of the proper number of witnesses in conformity with the rules and regulations of the proper religious society.

This Clause 2 of Section I is in no sense a restriction upon, but is rather an enlargement of the provisions of Clause 1 of said Section. Clause 1 provides for the celebration of marriage before some legally authorized official, whether ecclesiastical or civil. But since Quakers, and many others, object to any form of ceremony other than that prescribed by the religious society to which either or both of the contracting parties may belong, it was recognized by the Conference that such persons should be permitted to enter into the marriage relation in the method prescribed or authorized by their respective religious rites and ceremonies. Nevertheless, while conceding the right of such parties to be married according to the rules and regulations of any such religious society without the sanction of a legalized “officiating

person," by merely declaring in the presence of at least two competent witnesses that they take each other as husband and wife, it was deemed essential that at least one of the parties should be a member of such religious society in order to entitle such parties to the benefit of the looser form of marriage contract authorized by said Clause 2 of Section I, which, being an exception to the general rule requiring a marriage ceremony to be performed by some officiating person, should go no farther than warranted by the circumstances of the case. In other words, where a religious society recognizes a marriage without an officiating person it should do so only because such a marriage is binding on the conscience of at least one of the contracting parties as a member of the society, and the peculiar rights and privileges which may be granted to members of religious societies should not be extended to those who are not members so as to allow them to take advantage of the rules of the society to which they owe no obedience, and with which they have no affiliation. No such society itself would celebrate a marriage unless at least one of the parties was a member of the society. The phrase "any religious society, denomination or sect" is broad enough to include not only Quakers, but every other denominational sect, or society, including the Ethical Society of New York, and other states, Christian Scientists, etc. None of these religious bodies would allow interlopers to be married according to their rules and regulations when neither of the parties had any connection whatever with the organization.

6. Just as under Clause 1 there should be two competent witnesses, so also should there be under Clause 2; and the parties should likewise "declare in the presence of such witnesses that they take each other as husband and wife."

SEC. II. No persons shall be joined in marriage within this state until a license shall have been obtained for that purpose from the of the in which one of the parties resides; provided that if both parties be non-residents of the state, such license may be obtained from the (1) of the where the marriage ceremony is to be performed.

1. The official title of the person whose duty it is to issue marriage licenses to be inserted here. The practice varies in the different states; in New England it is generally the town clerk, in New York it is the town or city clerk, who makes return to the county clerk; in the rest of the Middle States, and almost universally in the South and West, the license is issued either by

the county clerk, or the clerk of the probate court, or the probate judge, and sometimes by the county judge. Howard, on Matrimonial Institutions, in Vol. III, 193-4, recommends very strongly the division of every county into marriage districts, for each of which a registrar should be authorized to license, solemnize and register all marriages civilly contracted therein, and to license, attend and register all religious celebrations; the authority of such registrar to be restricted to his district, and each district registrar to report to the county registrar, and each county registrar, in turn to the state registrar. This system seems admirable for its theoretical simplicity, but the popular objection to the multiplication of officers would undoubtedly prevent its adoption.

SEC. III. Application for a marriage license must be made at least five days before the license shall be issued; provided, that in cases of emergency, or extraordinary circumstances, the judge of the court having probate jurisdiction may authorize the license to be issued at any time before the expiration of said five days (1).

1. Wisconsin requires the license to be taken out several days before the marriage. In Maine "notice of intention" to apply for a license must be made at least five days before the issuing of the license, and provision is made for filing a protest against the issuing of a license. But if the license is once issued, the marriage ceremony may be performed at once. In Maryland no license is required if banns are published on three several Sundays before the marriage. In Ohio a license is not required if banns are published at least ten days before marriage. The requirement of a previous notice of an intended marriage obtains very generally in Europe. In England and Wales a marriage can be celebrated only after the publication of banns, or by virtue of a license, general or special, or by virtue of a registrar's certificate. In Scotland a regular marriage must be preceded by the publication of banns, or the issuance of a registrar's certificate. On the continent nearly every country requires publication as a pre-requisite to marriage. This may be either by banns as in Austria, or by civil publication. In Switzerland, for instance, either by notice posted in public places, or by a single insertion in the official newspaper. The term of publication, whether by banns or by the civil authorities, varies from three weeks to two weeks.

It is apparent, therefore, that in Europe previous notice of intention of marriage by the publication of banns by the religious

authorities, or an application to the civil authorities several days in advance of the issuing of the license, is the mode adopted to secure notice to the public and prevent hasty and unlawful marriages. As stated above, this method obtains in only three states. In forty states the license issues immediately on the making of the application in proper form. In theory the European method is perhaps more desirable as preventing violation of the time period between the issuing of the license and the marriage, and also as affording an opportunity for the orderly presentation and disposition of any objections that may be raised by reason of impediments.

SEC. IV. No license shall be issued unless both of the contracting parties shall be identified to the satisfaction of the proper, who shall further require of the parties, either separately or together, a statement under oath relative to the legality of the contemplated marriage, the date of same, the names, relationship, if any, age, nationality, color, residence, and occupation of the parties, the names of the parents, guardians, or curators of such as are under the age of legal majority, any prior marriage or marriages of the parties, or either of them, and the manner of the dissolution thereof; and if there be no legal objection thereto, such shall issue a marriage license in the form hereinafter prescribed. Or, the parties intending marriage may, either separately or together, appear before any, magistrate, or justice of the peace of the (whether in this or any other state) wherein either of the contracting parties resides, or of the where the marriage is to be performed, who shall require of them a statement under oath as above provided; and such statement, having been duly subscribed and sworn to, and the parties having been duly identified, shall be forwarded to the proper, who, if satisfied after an examination thereof, that the same is in proper legal form, and that no legal objection to the contemplated marriage exists, shall issue a license therefor. (1)

1. The terms of this section follow, in substance, the Pennsylvania Acts of Assembly, and each state may change the phraseology. But the two essential features of the section are, first, that no license shall be issued until proper proof has been made before

the marriage license clerk, or other proper authority, and second, that, as marriages are to be encouraged rather than prohibited, the requirement that the parties shall appear in person before the marriage license clerk, or other proper authority, is modified so as to permit the same proofs to be made before some official residing outside of the county seat. This latter provision may be peculiar to Pennsylvania, but it works very well in practice, since the record of the license, and of the marriage ceremony, is just as fully provided for by the subsequent sections of the act. The second paragraph of this section also provides for a case where one of the parties, say the woman, resides in any state, and the other resides in another state, but cannot spare the time to appear in person before the marriage license clerk five days before the intended ceremony of marriage. Under this section he can make the necessary proofs in advance before some magistrate of his place of residence.

A few states forbid the issuing of a license to imbeciles, paupers, epileptics, or persons afflicted with a transmissible disease. But as the determination of such facts would require expert testimony before the marriage license clerk, and as the interval of five days between the application for, and the issuing of the license gives opportunity to relatives and friends to object to the marriage, it is thought hardly necessary to insert such restrictions in this act.

SEC. V. No license shall be issued if either of the contracting parties be under the marriageable age of consent as established by law. If either of the contracting parties be between the marriageable age of consent as established by law, and the age of legal majority, to wit, between years and years, if a male, and between years and years if a female, no license shall be issued without the consent of his or her parents, guardian, or curator, or of the parent having the actual care, custody and control of such minor or minors, given before the under oath, or certified under the hand of such parents, guardian or curator as aforesaid, and properly verified by affidavit before a notary public or other official authorized by law to take affidavits, which certificate shall be filed of record in the office of said and entered by him on the marriage license docket before issuing said license; (1) Provided, that if there be no guardian or curator of either or both of such minors, or if there be no com-

petent person having the actual care, custody, and control of such minor or minors, then the judge of the of the residence of the minor having probate jurisdiction may, after hearing, upon proper cause shown, make an order allowing the marriage of such minor or minors. (2)

1. At Common Law the ages of 14 and 12 years for male and female respectively, were the ages at which either might enter into a binding contract of marriage. Thirty states, including the District of Columbia, have by statute prescribed a higher age limit for marriageable consent, and in those states the marriage of a minor between the Common Law age of consent, and the statutory age of consent, is voidable by the minor on arriving at the statutory age of consent. See *Beggs vs. State*, 55 Ala., 108; *Eliot vs. Eliot* (Wisc.), 46 N. W., 806; *State vs. Cone* (Mich.), 57 N. W., 50; *Scott vs. Lowell* (Minn.), 80 N. W. 877.

In Minnesota and Wisconsin the statutory age of consent is fixed at 18 for the male and 15 for the female, but the statute does not declare that marriages under such ages shall be void, therefore, the courts have held them to be voidable only. In the remaining 17 states the ages of consent remain the same as at Common Law, three of those states, Kentucky, Louisiana and Virginia, having adopted said ages by statute.

Every state except South Carolina requires the consent of parents, etc., for the marriage of minors above the marriageable age of consent and under a given age. In 40 states that age is fixed at 21 for the male, in 3 states at 18, and in 1 state at 16. In the 2 remaining states, Georgia and Michigan, no age is fixed for parental consent for the male. But as in Georgia the statutory age of consent for the male is 17, and in Michigan 18, parental consent is apparently not considered necessary in those states for the male, although required for the female up to the age of 18. The age below which parental consent is required for the marriage of the female, is fixed at 21 in 9 states, at 18 in 34 states (including District of Columbia), and at 16 in 3 states.

"The age of legal majority" of the male corresponds with the age below which parental consent must be obtained in 40 states as above mentioned. If this phrase be retained in the text, then the remaining 6 states would be required to repeal their existing provisions. In a few states the age of 18 is made by statute the age of legal majority of the female. In the rest it remains 21. For the sake of uniformity, it is desirable that 21 be fixed as the age below which parental consent must be obtained for the female as well as the male; but the section has been worded so as to permit those states which have made 18 the legal age of majority for the female to retain such age.

2. A few states, notably Massachusetts, have a provision authorizing the court of proper jurisdiction to make an order allowing the marriage of minors, where the parents, or one of them, live out of the state, or has deserted his family, or, where, the parents being dead, no guardian or curator has been appointed. Inasmuch, however, as the text of this section (lines 11 and 12) uses the phrase "parent having the actual care, custody and control of such minors," it would seem as though the case of absent parents was sufficiently provided for, and that there is no need to invoke the consent of the court except where, the parents being dead, no guardian, or curator, has been appointed. In many states a guardian *ad litem* would be appointed.

SEC. VI. Immediately upon entering an application for a license, the shall post in his office a notice giving the names and residences of the parties applying therefor, and the date of the application. Any person believing that the statements of the application are false or insufficient, or that the applicants or either of them are incompetent to marry, may file with the court having probate jurisdiction in the in which the license is applied for, a petition under oath, setting forth the grounds of objection to the marriage, and asking for a rule upon the parties making such application to show cause why the license should not be refused. (1) Whereupon, said court, if satisfied that the grounds of objection are *prima facie* valid, shall issue a rule to show cause as aforesaid, returnable as the court may direct, but not more than ten days from and after the date of said rule, which rule shall be served forthwith upon the applicants for such license, and upon the clerk before whom such application shall have been made, and shall operate as a stay upon the issuance of the license until further ordered. If, upon hearing, the objections be sustained, the court shall make an order refusing the license; the costs to rest in the discretion of the court; but if the objections be overruled, the party or parties filing the same shall be liable for all costs of the proceedings. (2)

1. Only two states, Louisiana and Maine, appear to have any provision for the filing of objections, by parents, guardians or others, to a contemplated marriage. In Louisiana the license issues immediately upon the making of the application. In

Maine notice of intention to apply for a license must be made at least five days before the issuing of the license. The procedure in each of those states, in case of opposition to the marriage, is rather crude. The Conference adopted the plan of requiring the application to be made five days before the issuing of the license, and the notice to be posted accordingly.

2. The question of liability for costs where the license is revoked should depend upon the circumstances of each case. The party at fault might be the intended husband, possibly the wife, possibly a pretended parent or guardian. As in a sense the public is a party interested, the costs if small, might justly be imposed upon the county; on the other hand, if much testimony were taken, the county should not be liable. It is therefore suggested that the costs in such cases be left in the discretion of the court.

Cases might arise where either liquidated damages, or unliquidated damages as to reputation, etc., might be suffered by the parties to the intended marriage, but it is very doubtful whether such damages should be recognized in this section, because creating a new statutory cause of action sounding in tort. Therefore the parties are left to recovery of their costs.

SEC. VII. Any person who shall, in any affidavit or statement required or provided for by Sections IV, V, or VI of this act, wilfully and falsely swear, or who shall procure another to swear falsely in regard to any material fact relating to the competency of either or both of the parties applying for a marriage license, or as to the ages of such parties, if minors, or who shall falsely pretend to be the parent, guardian or curator, having authority to give consent to the marriage of such minors, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than \$100 or more than \$500, or by imprisonment in the for not more than one year, or by both such fine and imprisonment. (1)

1. Colorado, Illinois, Massachusetts, Michigan, New York and Utah make such false swearing a penal offense. In Colorado, Michigan, New Jersey, New York and Utah it is perjury and punishable as such. The Illinois phraseology defining the punishment in the Section creating the offense seems preferable.

SEC. VIII. Any who shall knowingly issue a marriage license contrary to, or in violation of the provisions of this act shall be guilty of a misdemeanor, and upon

conviction thereof, be punished by a fine of not less than \$100 or more than \$500, or imprisonment in the for not more than one year, or by both such fine and imprisonment.

1. Some eighteen states impose severe penalties upon marriage license clerks who issue licenses contrary to the provisions or the prohibitions of the statute. Nine of these use, in substance, the language of the text. Three impose a penalty only for issuing to persons incompetent to marry. Four states impose a penalty only for issuing a license to minors without parental consent. Two other states for issuing a license without an affidavit to the facts required to be stated in the application. All of these acts of misfeasance or non-feasance are of serious importance, and should be severely punished, since the functions of the marriage license clerk are at least quasi-judicial, and it is very proper that a severe penalty should be imposed to insure a careful exercise of such powers. In addition to the foregoing acts, there may be also clerical mistakes of a less serious nature; *e. g.*, a license may be granted by the clerk of the wrong county, either through oversight of the law, or through collusion; or the clerk may himself be ignorant of the provisions of the law as to consanguinity, or affinity, or other impediments to marry; or he may be careless in identification of the parties, or in filling out the blanks in the application, or in omitting to attach his seal, etc., etc. For such clerical mistakes perhaps a small penalty should be imposed. If so, it is suggested that such end can be obtained by reducing the minimum fine, rather than by introducing a separate section covering clerical mistakes only, for the following reasons: First, in the case of the more serious offenses, the error can be corrected by protest filed within the five days elapsing between the making of the application and the issuing of the license. Second, a majority of the states have statutory provisions, in one form or another, to the effect that marriages consummated in good faith by the parties, and otherwise legal, shall be valid, notwithstanding the fact that the license may have been issued by the wrong marriage clerk, or that certain formalities have not been complied with. Provision is made for these matters in a subsequent section. It is to be remembered that if any of the parties to the application for the license make false representations to the marriage license clerk, upon the strength of which he issues a license, they are, by Section VII, *supra*, made liable to a severe penalty. The amount of fine in this section is fixed at the same amount as in Section VII.

SEC. IX. Model forms for blank applications, statements, consent of parents, affidavits, licenses, and marriage certificates

and such other forms as shall be necessary to comply with the provisions of this act shall be prescribed by the and provided at the expense of the state; and a sample copy of each of said forms shall be furnished to the of each of the state. The authorities shall furnish, at the cost of said, to the all of the aforesaid blanks, together with a suitable book to be called the Marriage License Docket, which said shall keep in his office among his records, and enter therein a complete record of the applications for, and the issuing of all marriage licenses, and of all matters which he is required by this act to ascertain relative to the rights of any person to obtain a license. Said Marriage License Docket shall be open for public inspection or examination at all times during office hours. (1)

1. The foregoing section needs no explanation.

SEC. X. The license shall authorize the marriage ceremony to be performed in any of this state, excepting that where both parties are non-residents of the state, the ceremony shall be performed only in the in which the license is issued. (1) The license shall be directed "to any person authorized by the law of this state to solemnize marriage," and shall authorize him to solemnize marriage between the parties therein named, at any time not more than one year (2) from and after the date thereof. If the marriage is to be solemnized by the parties without the presence of an officiating person, as provided by paragraph 2 of Section I of this act, the license shall be directed to the parties to the marriage. If either of the parties be not of the age of legal majority, then his or her age shall be stated, and the fact of the consent of his or her parents, guardian, or curator, shall likewise be stated; and if either of said parties shall have been theretofore married, then the number of times he or she shall have been previously married, and the manner in which the prior marriage or marriages was or were dissolved, shall be stated. The officiating person shall satisfy himself that the parties presenting themselves to be married by him are the parties named in the license; and if he

knows of any legal impediment to such marriage, he shall refuse to perform the ceremony. (3) The issue of a license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between the parties illegal, and the license shall contain a statement to that effect. (4)

1. In some states, *e. g.*, Pennsylvania, the license issued authorizes the ceremony to be performed in any county of the state. This provision was adopted in the bill, as reported at Detroit. In the bill as reported at Chattanooga the place of ceremony was confined to the county where the license is issued. But since by Section II as finally adopted the place of issuing the license is restricted, there seems to be no reason why parties residing in one city, say Philadelphia, should not be permitted to take out a license there, and be married later in some other city, say Pittsburgh, which may have been the former home residence of one or both of the parties, since so far as record purposes are concerned the triplicate marriage certificate must be returned to the clerk who issued the license (as required by Section XIV, *infra*); or indeed why, if notice of application be posted in the county of residence, the ceremony may not (except in case of non-residents of the state) be performed in any other county of the state, since a marriage valid where celebrated is valid everywhere.

2. North Carolina and Wisconsin seem to be the only states fixing a time limit to the marriage license, but there is much to be said in its favor. In Austria the life of a marriage license is six months, in England three months; in Germany six months; and in Switzerland six months.

3. These provisions are also necessary for the protection of the officiating person.

4. This last clause appears in no existing statute, but being declaratory of the existing law, there can be no objection to its insertion.

SEC. XI. Said license shall be in form substantially as follows:

| | | |
|---------------|-------|---------|
| State of..... | } ss. | No..... |
|of..... | | |

To any person authorized by the laws of this state to solemnize marriage:

You are hereby authorized at any time not more than one year from and after the date hereof, within the of

..... (not knowing any legal impediment thereto) (1) to join together in marriage in accordance with the laws of this state, A.....Baged and never heretofore married (or married on the day of, A. D., to E..... F....., said E..... F..... having died on the day of A. D.; or, said A.....B having been divorced from said E..... F..... by the court of of the of state of on the day of A. D.), and C..... D..... aged and never heretofore married (or married on the day of A. D., to G..... H..... said G..... H..... having died on the day of A. D.; or said C..... D..... having been divorced from said G..... H..... by the court of of the of state of on the day of A. D.). The consent of the of the said A..... B..... and of, the of the said C..... D..... having been duly given. The issue of this license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between the parties illegal. (2)

Given under my hand and the seal of the court of at state of this day of Anno Domini one thousand nine hundred and

[Seal]

Marriage License Clerk.

1. This clause in parenthesis appears in the New York form of license, and seems to be a very proper warning to the officiating person as to impediments to the marriage within his knowledge.

2. As stated in Note 4 to Section X this is novel provision. But it is a very proper notice where the license is issued to the parties themselves in case there be no officiating person, and for the sake of uniformity should be included in the more general form of license.

The foregoing form of license has been filled out in detail for

the purpose of showing in concrete form the requirements of Section X. The form of license issued in most states is quite brief. In Pennsylvania it consists merely of the first five lines ending with the words "the laws of this state," and omitting the two clauses in parenthesis, following which are several blank lines for filling in the names of the parties, of the parents or guardians of minors, the fact of former marriage if any, mode of dissolution, and cause of divorce, if any, according to the facts of each particular case.

SEC. XII. If the marriage is to be solemnized by the parties without an officiating person, as provided by paragraph 2 of Section I of this act, the license shall be in form substantially as follows:

State of } ss. No.
 of }
 To A..... B..... aged and C.....
 D..... aged

This is to certify that, legal evidence having been furnished to me as required by law, and the consent of the of the said A..... B..... and of the of the said C..... D..... having been duly given, I am satisfied there is no legal impediment to your joining yourselves in marriage in accordance with the customs, rules, and regulations of any religious society, denomination or sect to which you, or either of you, may belong, at any time not more than one year from and after the date hereof, within the of

The issue of this license shall not be deemed to remove or dispense with any legal disability, impediment or prohibition rendering marriage between you illegal.

Given under my hand and the seal of the.....
 Court of at state of
 this day of Anno Domini one thousand nine
 hundred and

[Seal]

.....
 Marriage License Clerk.

SEC. XIII. The license shall have appended to it three certificates, numbered to correspond with the license (one marked

"original," one marked "duplicate," and one marked "triplicate"), which shall be in form substantially as follows:

MARRIAGE CERTIFICATE.

I, hereby certify that on the day of Anno Domini one thousand nine hundred and at in the of state of A..... B..... of state of and C..... D..... of state of were by me united in marriage as authorized by a marriage license issued for that purpose by the of and state of numbered and dated the day of A. D. 19.....

Signed
(Official designation)

We, the undersigned were present at the marriage of A..... B..... and C..... D....., as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other for husband and wife.

D..... E.....
F..... G.....

But if, as provided by Section XII of this act, the license has been issued to the parties themselves, then the certificate (in triplicate) shall be in form substantially as follows.

MARRIAGE CERTIFICATE.

We hereby certify that on the day of Anno Domini one thousand nine hundred and we united ourselves in marriage in accordance with the customs, rules and regulations of the (1) at in the.... of and state of having first obtained from the of the of state of, a marriage license numbered and dated the day of A. D. 19....., certify-

ing that he was satisfied that there was no legal impediment to our so doing.

A..... B.....
C..... B.....

We, the undersigned were present at the marriage of A..... B..... and C..... D....., as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other as husband and wife.

D..... E.....
F..... G.....

And the triplicate certificate in each case shall contain the following words: "N. B. This triplicate certificate must be returned to the license clerk who issued the license within thirty days from the date of the marriage."

1. This blank to be filled in with the name of the religious society to which the parties, or either of them, may belong; to wit, Quakers, Anabaptists, etc., as the case may be.

SEC. XIV. The marriage certificates marked "original" and "duplicate," duly signed, shall be given by the officiating person to the persons married by him; and the certificate marked "triplicate" shall be returned by such officiating person, or, in the case of a marriage ceremony performed without an officiating person, then by the parties to the marriage contract, or either of them, to the who issued the license, within thirty days after the date of said marriage. (1)

1. The Maine, Massachusetts, and New Hampshire statutes have the following provision: "If a marriage be solemnized in another state between parties living in this commonwealth, who return to dwell here, they shall, within seven days after their return, file with the clerk or registrar of the city or town in which either of them lived at the time of their marriage, a certificate or declaration of their marriage, including the facts relative to marriage which are required by law, and for neglect thereof shall forfeit ten dollars."

Unquestionably, complete registration of all marriages is greatly to be desired. But such a provision as the foregoing has been omitted from this draft because it would seem impractical in the present day and generation, when, owing to the demands

of business and ease of transportation, hundreds and thousands of families are constantly on the move, to enforce such a provision. However, any state whose present code contains such a clause may readily reinsert it, the question being really a matter of local concern.

SEC. XV. The said upon receiving such triuplicate certificate, shall immediately enter, the same on the docket where the marriage license of said parties is recorded, and place such certificate on file.

SEC. XVI. If any officiating person shall solemnize a marriage unless the contracting parties shall first have obtained a proper license as hereinbefore provided; or unless the parties to such marriage declare that they take each other as husband and wife; or without the presence of two competent witnesses; or, in the case of a minor or minors, unless the consent, as hereinbefore provided, of the parent, guardian or curator of such minor or minors be stated in such license; or shall solemnize a marriage knowing of any legal (1) impediment thereto; or shall solemnize a marriage more than one year from and after the date of the license; or shall falsely certify to the date of a marriage solemnized by him; or shall solemnize a marriage in a other than the prescribed in Section X of this act, he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than \$100 or more than \$500, or by imprisonment in the for not more than one year, or by both such fine and imprisonment.

1. The offense here is confined to knowledge of *legal* impediments. Violation of a church canon forbidding the re-marriage of divorced persons would be an ecclesiastical and not a legal offense, therefore, the qualifying adjective "legal" is necessary.

2. All of these offenses are of a serious nature, and should be severely punished.

MEM. Some ten states require, either that ministers of the Gospel be licensed by some authority within the state, or that they have an active charge within the state, or that they be residents of the state, thus practically forbidding a marriage ceremony to be performed by a clergyman of another state. This is a matter for each state to regulate for itself. This act does not pretend to define the persons who shall be authorized to solemnize marriages, or their qualifications.

SEC. XVII. Where a marriage is solemnized without the presence of an officiating person, then, and in that case, if the parties to such marriage shall solemnize the same more than one year from and after the date of the license; or shall falsely certify to the date of such marriage or shall solemnize the same in a other than the prescribed in Section X of this act, they or either of them shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$100 or more than \$500, or by imprisonment in the for not more than one year, or by both such fine and imprisonment (1).

1. The prohibitions of this section are formal rather than substantive, and a marriage solemnized in violation thereof would not, and should not, be rendered void by reason of such violation.

SEC. XVIII. If any person, not being duly authorized by the laws of this state, shall wilfully or knowingly undertake to solemnize a marriage in this state, he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than \$100 or more than \$1000, or by imprisonment in the for not more than one year, or by both such fine and imprisonment. (1)

1. This being a serious offense against both public policy and the parties to the marriage, the penalty should be severe.

SEC. XIX. Every officiating person, or persons marrying without the presence of an officiating person, as provided by paragraph 2 of Section I of this act, who shall neglect or refuse to transmit the triplicate certificate of any marriage solemnized by him or them, to the issuing the license within thirty days after the date of such marriage, shall be fined the sum of one hundred dollars.

SEC. XX. Any who shall refuse or neglect to enter upon the marriage license docket a complete record of each application, and of each marriage license issued from his office, immediately after the same shall have been made or issued, as the case may be, or to enter the triplicate certificate of any marriage upon the marriage license docket, as required by Section XV of this act, or shall fail to keep such marriage license docket

open for inspection or examination by the public during office hours, or shall prohibit or prevent any person from making a copy or abstract of the entries in the marriage license docket, shall for each such illegal act, omission or denial, be fined the sum of fifty dollars.

SEC. XXI. Any fine or forfeiture accruing under the provisions of this act may be recovered by an action of debt, in the same manner as other debts are recovered by law, with the usual costs, in any court of record in any in this state in which the defendant or defendants may be found.

SEC. XXII. A copy of the record of the marriage license, and marriage certificate, certified under the hand of said and the seal of the court, shall be received in all courts of this state as *prima facie* evidence of such marriage between the parties therein named. (1)

1. The purpose of this section is simply to provide that certified copies of the marriage license and certificate may be received in evidence as *prima facie* proof of a marriage in lieu of the originals themselves. A number of the states have statutory provisions similar to this which are generally found in their "marriage" codes and not in their "evidence" codes.

SEC. XXIII. All marriages hereafter contracted in violation of any of the requirements of Section I of this act (1) shall be null and void (except as provided in Sections XXIV and XXV of this act); provided, that the parties to any such void marriage may, at any time, validate such marriage by complying with the requirements of this act, and the issue thereof, if any, shall thereupon become legitimate, as provided by Section XXVII of this act.

1. The purpose of this section is to abolish what are known as Common Law marriages, which end can best be effected by declaring such marriages void, as has already been done in some twelve or thirteen states. Three states, Illinois, New York and Washington, declare marriages without a license void. Seven states, Kentucky, Maine, Maryland, Massachusetts, North Carolina, Oregon and Utah, require a proper solemnization for the validity of the marriage; and two states, California and West Virginia, require both license and proper solemnization; otherwise the marriage is void. In as many more there are provisions

requiring a license, proper solemnization of the marriage, and consent of the parents, etc., of minors. But the courts of those states have construed such requirements as directory only, and not mandatory, because of the absence of language declaring marriages performed in violation thereof void.

The requirements of this act may be divided into two classes: First, those which on grounds of public policy may be considered as substantive, affecting the validity of the marriages, the observance of which should be strictly insisted upon, and any violation thereof, being necessarily wilful on the part of the contracting parties, should be severely punished; second, those which may arise from no fault of the parties themselves, but be due to fraud or carelessness of others, and may therefore be regarded as merely formal. Of the first class are those requiring, (a) the issue of a license; (b) that the marriage be solemnized before an officiating person duly authorized by law, or according to the rites and ceremonies of any religious society or denomination to which either of the parties may belong; (c) the declaration by the parties that they take each other as husband and wife; (d) the presence of at least two competent witnesses. Of the second class are those relating to, (a) the jurisdiction of the marriage license clerk; (b) to omissions, informalities or irregularities of form, either in the application for the license or in the license itself; (c) to incompetency of the witnesses to the marriage; (d) to the solemnization of a marriage in a county other than that prescribed in Section X of this act; (e) to false assumption of authority or jurisdiction by the officiating person, whether wilful or innocent; (f) that the marriage shall not be solemnized more than one year after the date of the license; (g) and, in the case of minors, requiring the consent of the parents, guardian or curator of such minor before issuing a license.

For violation of the first class of requirements the marriage itself should be declared void as provided by this section. For violation of the second class of requirements it is sufficient, that in addition to the penalties imposed upon the offending party, such marriages should be regarded as voidable only, as the divorce laws of each state may provide. As to such laws, it is sufficient to say that such marriages can be annulled only upon the ground of fraud, force or coercion, at the suit of the innocent and injured party; and not even then if the marriage has been confirmed by the acts of such injured party after knowledge of the facts.

Sec. XXIV. No marriage hereafter contracted shall be void by reason of want of authority or jurisdiction in the officiating

person solemnizing such marriage, if the marriage is in other respects lawful, and is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SEC. XXV. No marriage hereafter contracted shall be void either by reason of the license having been issued without the consent of the parents, guardian or curator of a minor, or by a not having jurisdiction to issue the same, or by reason of any omission, informality or irregularity of form in the application for the license or in the license itself, or by reason of the incompetency of the witnesses to such marriage, or because the marriage may have been solemnized in a other than the prescribed in Section X of this act, or more than one year after the date of the license, if the marriage is in other respects lawful and is consummated with the full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. Where a marriage has been celebrated in one of the forms provided for in Section I of this act, and the parties thereto have immediately thereafter assumed the habit and repute of husband and wife, and have continued the same uninterruptedly thereafter for the period of one year, or until the death of either of them, it shall be deemed that a license has been issued as required by this act (1).

1. As stated in Note 1 to Section XXIII, one purpose of this act is to abolish Common Law marriages as far as possible. To this end four essentials to the marriage contract are prescribed. These are enumerated in the note to Section XXIII. There are also seven non-essentials to the validity of a marriage contract; these also are specified in said note. Sections XXIV and XXV expressly provide that failure to observe or to comply with any or all of the seven non-essentials shall not invalidate the marriage.

In Conference it was objected that while Section XXIV preserved the validity of a marriage in spite of want of authority in the officiating person (which would include false assumption of authority), yet all the other essentials of a marriage contract except the procuring of a license might be complied with and, under Section XXIII, such marriage would be void; it was therefore urged that an exception be added to cover that point. The last clause of Section XXV, which covers the case of a marriage celebrated before an officiating person, or according to the rules

and regulations of any religious society, without a license having first been obtained, was therefore added. Inasmuch as a severe penalty is imposed upon any officiating person solemnizing a marriage without a license there is little practical likelihood of cases so arising under this amending clause. But it would perhaps often apply where the marriage is celebrated without a license, according to the rules and regulations of any religious society or sect, since there is no provision of the act which imposes a penalty upon parties so contracting marriage. The possibility of this open door to evasion of the requirement of a license renders all the more essential Clause 2 of Section I, requiring at least one of the parties to belong to the religious society or sect under whose rules the ceremony is to be performed. If the necessity for a license may be dispensed with in such cases there should be some restriction to take its place.

SEC. XXVI. If a person during the lifetime of a husband or wife with whom the marriage is in force, enters into a subsequent marriage contract in accordance with the provisions of Section I of this act, and the parties thereto live together thereafter as husband and wife, and such subsequent marriage contract was entered into by one of the parties in good faith, in the full belief that the former husband or wife was dead, or that the former marriage had been annulled, or dissolved by a divorce, or without knowledge of such former marriage, they shall, after the impediment to their marriage has been removed by the death, or divorce of the other party to such former marriage, if they continue to live together as husband and wife in good faith on the part of one of them, be held to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be considered as the legitimate issue of both parents. (1)

1. This provision is copied from a similar provision in the Massachusetts statutes, and possibly may be found in a few other states. The principle underlying this section is that of estoppel. That is to say, such a marriage should not be voidable at the instance of the party at fault, any more than the marriage of a minor who has freely cohabited after attaining his or her majority, or a marriage induced by fraud if the marriage has been confirmed by the innocent party after acquiring knowledge of the fraud.

SEC. XXVII. In any and every case where the father and mother of an illegitimate child or children shall lawfully intermarry, such child or children shall thereby become legitimated, and enjoy all the rights and privileges of legitimacy as if they had been born during the wedlock of their parents; and this section shall be taken to apply to all cases prior to its date, as well as those subsequent thereto; provided, that no estate already vested shall be divested by this act.

1. This section is derived from two or three acts of assembly in force in Pennsylvania. Many other states have similar provisions. The language of this section is intended to cover all of the principles involved in the question.

SEC. XXVIII. The of each shall, on or before the first day of February in each year, make return to the of this state, upon suitable blank forms to be provided by the state, of a statement of all marriage licenses issued by him during the preceding calendar year, including all the facts required to be ascertained by him upon the issuing of each license; and shall also make return of a statement of all marriage certificates which shall have been returned to him during such period; and upon neglect or refusal so to do, such shall forfeit and pay the sum of \$100 for the use of the proper(1).

1. Twenty-five states have made statutory provisions for state registration of marriage. The United States Census Bureau has been at great expense, owing to the lack of state registration, in its effort to secure accurate statistics concerning marriage and divorce in the United States, and all who are interested in this matter recognize the necessity of an adequate and uniform system of state registration. Such registration is simply the next step beyond the keeping of a record in the proper county of all licenses issued in that county; therefore, it is very properly the subject of a marriage license bill. The requirements of this section correspond with the information asked for by the United States Census Bureau.

SEC. XXIX. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SEC. XXX. Each shall be entitled to receive the following fees. (1)

1. Each state to fix its fees.

SEC. XXXI. (Repealing clause.)

SEC. XXXII. This act shall take effect the day of
....., Anno Domini 191.....

AN ACT

TO REGULATE THE EMPLOYMENT OF CHILDREN AND TO MAKE
UNIFORM THE LAWS RELATING THERETO.

Be it enacted, etc., as follows:

CHILDREN UNDER FOURTEEN.

SECTION. 1. No child under fourteen years of age shall be employed, permitted or suffered to work in, about or in connection with any (1) mill, (2) factory, (3) workshop, (4) mercantile or mechanical establishment, (5) tenement-house manufactory or workshop, (6) store, (7) office, (8) office building, (9) restaurant, (10) boarding-house, (11) bakery, (12) barber shop, (13) hotel, (14) apartment house, (15) bootblack stand or establishment, (16) public stable, (17) garage, (18) laundry, (19) place of amusement, (20) club, (21) or as a driver, (22) or in any brick or lumber yard, (23) or in the construction or repair of buildings, (24) or in the distribution, transmission or sale of merchandise, (25) or in the transmission of messages.

This section, with some modifications, is in force in the following states:

Colorado, Child Labor Act of 1911, Section 1.

Delaware, Acts of 1909, Chapter 121, Section 1 (applies to "any gainful occupation").

District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 1.

Illinois, Revised Statutes, 1905, Chapter 48, Section 20.

Indiana, Child Labor Act of 1911, Section 1.

Iowa, Acts of 1906, Chapter 103, Section 1.

Louisiana, 1908, Act 301, Section 1 ("or in any other occupation not herein enumerated which may be deemed unhealthful or dangerous").

Michigan, Acts of 1909, No. 285, Section 10 as amended in 1911.

Missouri, Revised Statutes 1909, Section 1715 as amended in 1911.

Nebraska, Acts of 1907, Chapter 66, Section 1.

New Jersey, Acts of 1904, Chapter 64, Section 1.

New York, Laws of 1909, Chapter 36, Sections 70 and 162.

North Dakota, Laws of 1909, Chapter 153, Section 1.

Ohio, General Code, Section 12993.

Oregon, Acts of 1911, Chapter 138, Section 2.

Pennsylvania, Acts of 1909, No. 182, Sections 1 and 2.

Rhode Island, Acts of 1910, Chapter 533, Section 1.

Tennessee, Acts of 1911, Chapter 57, Section 1.

Wisconsin, Laws of 1911, Chapter 479, Section 1728a (3).

In the Supreme Court of the United States, February 28, 1898, in the case of *Holden vs. Hardy*, 169 U. S. 366 (Utah case) the sections of the statute (Laws of 1896, Page 219) are upheld, which, among other regulations, prohibit "the employment of women, and of children under the age of fourteen years, in underground mines."

In the case of *Lenahan vs. Pittston Coal Mining Co.*, 67 Atl. 642, the Supreme Court of Pennsylvania said: "The legislature, under its police power, can fix an age limit below which boys should not be employed," etc.

In the case of *State vs. Shorey*, 86 Pac. 881, the Supreme Court of Oregon, referring to the inability of the state to interfere with contract in the employment of adult males, said: "But laws regulating the right of minors to contract do not come within this principle. They are not *sui juris*, and can only contract to a limited extent. They are wards of the state and subject to its control. As to them the state stands in the position of *parens patriæ*, and may exercise unlimited supervision and control over their contracts, occupation and conduct, and the liberty and right of those who assume to deal with them. This is a power which inheres in the government for its own preservation, and for the life, person, health and morals of its future citizens," etc.

SEC. 2. It shall be unlawful for any person, firm or corporation to employ, permit or suffer to work any child under fourteen years of age in any business or service whatever during any of the hours when the public schools of the district in which the child resides are in session.

This section is copied, slightly altered, from the following statutes:

- Colorado, Child Labor Act of 1911, Section 1.
- District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 1.
- Illinois, Revised Statutes, 1905, Chapter 48, Section 20.
- Kansas, Laws of 1909, Chapter 65, Section 1.
- Kentucky, Acts of 1908, Chapter 66, Section 1.
- Maine, Acts of 1909, Chapter 257, Section 2.
- Massachusetts, Acts of 1909, Chapter 514, Section 56.
- Minnesota, Acts of 1907, Chapter 299, Section 1.
- Nebraska, Acts of 1907, Chapter 66, Section 1.
- New Jersey, Acts of 1911, Chapter 136, Section 1 (mercantile establishments).
- North Dakota, Laws of 1909, Chapter 153, Section 1.
- Oregon, Acts of 1901, Chapter 136, Section 3 (age limit fifteen years).
- Tennessee, Acts of 1911, Chapter 57, Section 2.

CHILDREN UNDER SIXTEEN.

SEC. 3. No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions: (1) Adjusting any belt to any machinery; (2) sewing or lacing machine belts in any workshop or factory; (3) oiling, wiping or cleaning machinery or assisting therein; (4) operating or assisting in operating any of the following machines: (a) Circular or band saws; (b) wood shapers; (c) wood jointers; (d) planers; (e) sand-paper or wood-polishing machinery; (f) wood-turning or boring machinery; (g) picker machines or machines used in picking wool, cotton, hair or any other material; (h) carding machines; (i) paper-lace machines; (j) leather-burnishing machines; (k) job or cylinder printing presses operated by power other than foot power; (l) boring or drill presses; (m) stamping machines used in sheet-metal and tin-ware or in paper and leather manufacturing, or in washer and nut factories; (n) metal or paper cutting machines; (o) corner staying machines in paper box factories; (p) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories; (q) steam boilers; (r) dough brakes or cracker machinery of any description; (s) wire

or iron straightening or drawing machinery; (t) rolling mill machinery; (u) power punches or shears; (v) washing, grinding or mixing machinery; (w) calendar rolls in paper and rubber manufacturing; (x) laundering machinery; (5) or in proximity to any hazardous or unguarded belts, machinery or gearing; (6) or upon any railroad, whether steam, electric or hydraulic; (7) or upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state.

This section, with a somewhat different list of prohibited occupations, is in effect in the following states:

Colorado, Child Labor Act of 1911, Section 3.

Connecticut, Acts of 1911, Chapter 123, Section 1.

Illinois, Revised Statutes, 1905, Chapter 48, Section 20j.

Indiana, Child Labor Act of 1911, Section 5.

Minnesota, Acts of 1907, Chapter 299, Section 11.

Missouri, Revised Statutes, 1909, Section 1726-*b* as amended by Act of 1911.

New York, Laws of 1909, Chapter 36, Section 93 (amended by Laws of 1910, Chapter 107).

North Dakota, Laws of 1909, Chapter 153, Section 9.

Oklahoma, Acts of 1909, page 629, Section 2.

Tennessee, Acts of 1911, Chapter 57, Section 3.

Vermont, Acts of 1911, No. 70, Section 2.

Wisconsin, Laws of 1911, Chapter 479, Section 1728*a* (2).

The employment of a minor in violation of this statute is negligence, and the employee does not assume the risk of injury. 105 N. W. Rep. 755.

Nor does the fellow-servant doctrine apply to one whose employment the law forbids. 116 N. W. Rep. 1107.

But he may be charged with contributory negligence. 112 N. W. Rep. 691.

SEC. 4. No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity (1) in, about or in connection with any processes in which dangerous or poisonous acids are used; (2) nor in the manufacture or packing of paints, colors, white or red lead; (3) nor in soldering; (4) nor in occupations causing dust in injurious quantities; (5) nor in the manufacture or use of dangerous or poisonous dyes; (6) nor in the manufacture or preparation of compositions with dangerous or poisonous gases; (7) nor in the manufacture or use of compositions of lye in which the quantity thereof is injurious

to health; (8) nor on scaffolding; (9) nor in heavy work in the building trades; (10) nor in any tunnel or excavation; (11) nor in, about or in connection with any mine, coal breaker, coke oven, or quarry; (12) nor in assorting, manufacturing or packing tobacco; (13) nor in operating any automobile, motor car or truck; (14) nor in a bowling alley; (15) nor in a pool or billiard room; (16) nor in any other occupation dangerous to the life and limb, or injurious to the health or morals of such child; (17) nor shall any child under the age of sixteen years be employed upon the stage of any theater or concert hall or in connection with any theatrical performance or other exhibition or show.

- Cf.* Colorado, Child Labor Act of 1911, Section 3.
Illinois, Revised Statutes, 1905, Chapter 48, Section 20j.
Indiana, Child Labor Act of 1911, Section 4.
Minnesota, Acts of 1907, Chapter 299, Section 11.
Missouri, Revised Statutes, 1909, Section 1726-c, as amended in 1911.
Montana, Laws of 1907, Chapter 99, Section 1.
Nebraska, Acts of 1907, Chapter 66, Section 13.
New York, Laws of 1909, Chapter 36, Section 93
(amended by Laws of 1910, Chapter 107).
North Dakota, Laws of 1909, Chapter 153, Section 9.
Ohio, General Code, Sections 13001-13004.
Oklahoma, Acts of 1909, page 629, Sections 2 and 3.
Pennsylvania, Acts of 1909, No. 182, Sections 1-3.
Texas, Child Labor Act of 1911, forbids employment under 17 years of age "in or about any quarry or mine."

In the case of *State vs. Shorey*, 86 Pac. 881, the Supreme Court of Oregon defended the constitutionality of the law regulating the hours for employment of children under sixteen, and said: "It is competent for the state to forbid the employment of children in certain callings, merely because it believes such prohibition for their best interest, although the prohibited employment does not involve a direct danger to morals, decency, or to life or limb."

SEC. 5. The state board of health may, from time to time, after a hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying

on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under sixteen years of age to justify their exclusion therefrom. No child under sixteen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the [Superior] Court from any such determination.

Cf. Kentucky, Acts of 1908, Chapter 66, Section 11 (duty of city health officer or county physician, applies to minors under sixteen years).

Massachusetts, Acts of 1909, Chapter 514, Section 75.

Oklahoma, Acts of 1909, page 629, Section 1, as amended by Acts of 1910, Chapter 404.

EMPLOYMENT CERTIFICATES.

SEC. 6. No child under sixteen years of age shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in Section 1 unless the person, firm or corporation employing such child procures and keeps on file, and accessible to any truant officer [or attendance officer], inspector of factories, or other authorized inspector or officer charged with the enforcement of this act, the employment certificate as hereinafter provided, issued to said child; and keeps two complete lists of the names together with the ages of all boys under sixteen years of age and all girls under eighteen years of age employed in or for such establishment or in such occupation, one on file and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed.

Cf. California, Acts of 1911, Chapter 456, Section 3.

District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 2.

Massachusetts, Acts of 1909, Chapter 514, Section 57.

Minnesota, Acts of 1907, Chapter 299, Section 2.

Nebraska, Acts of 1907, Chapter 66, Section 2.

New Hampshire, Acts of 1911 relating to child labor, Section 7.

New York, Laws of 1909, Chapter 36, Sections 70, 76, 162 and 167.

North Dakota, Laws of 1909, Chapter 153, Section 2.

Ohio, General Code, Sections 12994, 12995, 12998.

Oklahoma, Acts of 1909, page 629, Section 8.

Oregon, Acts of 1911, Chapter 138, Section 6.

Pennsylvania, Acts of 1909, No. 182, Section 7.

Rhode Island, Acts of 1910, Chapter 533, Section 1.

West Virginia, Acts of 1911, Chapter 60, Section 2.

Wisconsin, Acts of 1911, Chapter 479, Sections 1728b (2), 1728a (6).

"The duty of obtaining a certificate devolves absolutely on the employer, and the parents' failure to inform him of the age of child unlawfully employed is no excuse." 71 N. E. Rep. 922.

In the case of the American Car and Foundry Co. *vs.* Amentraut, 73 N. E. 766, the Supreme Court of Illinois held "that the employer must ascertain, at his peril, that his employees are over fourteen years of age," etc.

SEC. 7. Truant officers [or attendance officers], inspectors of factories, or other authorized inspectors, or officers charged with the enforcement of this act shall require that the employment certificates and lists provided for in this act be produced for their inspection.

Cf. California, Acts of 1911, Chapter 456, Section 3.

District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 7.

Massachusetts, Acts of 1909, Chapter 514, Section 64.

Minnesota, Acts of 1907, Chapter 299, Section 10.

Nebraska, Acts of 1907, Chapter 66, Section 2.

New York, Laws of 1909, Chapter 36, Sections 76 and 167.

Ohio, General Code, Section 12995.

Oregon, Acts of 1911, Chapter 138, Section 10.

SEC. 8. On termination of the employment of a child whose employment certificate is on file, such certificate shall be returned by the employer within two days to the official who issued the same with a statement of the reasons for the termination of said employment.

Cf. Minnesota, Acts of 1907, Chapter 299, Section 2.

Nebraska, Acts of 1907, Chapter 66, Section 2.

North Dakota, Laws of 1909, Chapter 153, Section 2.

Ohio, General Code, Section 7766.

West Virginia, Acts of 1911, Chapter 60, Section 2.

Wisconsin, Laws of 1911, Chapter 479, Section 1728a

(6) requires the employer to return the permit "to the person and place designated by the commissioner of labor" within twenty-four hours.

SEC. 9. An employment certificate shall be issued only by the superintendent of schools or by a person authorized by him in writing, or [where there is no superintendent of schools], by a person authorized in writing by the school board or committee in the city, town or village where such child resides, or in case the child resides outside of the state of, in the city, town or village in which the child is to be employed, upon the application in person of the parent or guardian or custodian of the child desiring such employment; *provided*, that no member of a school board or committee, or other person authorized as aforesaid, shall have authority to issue such certificate for any child then in or about to enter such person's own employment or the employment of a firm or corporation of which he is a member, officer or employee.

Cf. California, Acts of 1911, Chapter 456, Section 3.

District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 3.

Illinois, Revised Statutes, 1905, Chapter 48820a.

Louisiana, 1908, Act 301, Section 2.

Massachusetts, Acts of 1909, Chapter 514, Section 58, as amended in 1910 and by Chapter 269, Acts of 1911.

Minnesota, Acts of 1907, Chapter 299, Section 3.

Missouri, Revised Statutes of 1909, Section 1719, as amended in 1911.

Nebraska, Acts of 1907, Chapter 66, Section 3.

New Hampshire, Act of 1911 relating to child labor, Section 9.

North Dakota, Laws of 1909, Chapter 153, Section 3.

Ohio, General Code, Section 7766.

Oregon, Acts of 1911, Chapter 138, Section 7 (certificates issued by "Secretary of the Board of Inspection of Child Labor").

Rhode Island, Acts of 1910, Chapter 533, Section 1.

West Virginia, Acts of 1911, Chapter 60, Section 2.

NOTE.—New York (see Laws of 1909, chapter 36, sections 71 and 163) places the issuing of the employment certificate entirely in the

hands of the "commissioner of health or the executive officer of the board or department of health." It is generally agreed that this system is successful.

SEC. 10. The person authorized to issue an employment certificate shall not issue such certificate until he has received examination, approved and filed the following papers, duly executed, viz:

(1) The written pledge or promise of the person, firm or corporation to legally employ the child and also the written agreement to return the employment certificate within two days after the termination of such employment, as provided in Section 9 of this act.

(2) The school record of such child properly filled out and signed, as provided in this act.

(3) A certificate signed by a physician appointed by the school board or committee stating that such child has been examined by him and, in his opinion, has reached the normal development of a child of its age, and is in sufficiently sound health and physically able to be employed in any of the occupations or processes in which a child between fourteen and sixteen years of age may be legally employed.

(4) Evidence of age showing that the child is fourteen years old or upwards, which shall consist of one of the following proofs of age and shall be required in the order herein designated as follows:

(a) A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording births, which certificate shall be *prima facie* evidence of the age of such child.

(b) A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(c) In case none of the above proofs of age can be produced, other documentary evidence of age which shall appear to be satisfactory to the officer issuing the certificate (aside from the school record of such child or the affidavit of parent, guardian or custodian), may be accepted in lieu thereof. In such case a school

census or enumeration record, duly attested, may be used as proof of age in the discretion of the officer issuing the certificate.

(d) In case no documentary proof of age of any kind can be produced, the officer issuing the certificate may receive and file an application signed by the parent, guardian or custodian of the child for physicians' certificates. Such application shall contain the name, alleged age, place and date of birth, and present residence of the child, together with such further facts as may be of assistance in determining the age of such child, and shall contain a statement certifying that the parent, guardian or custodian signing such application is unable to produce any of the documentary proofs of age specified in the preceding subdivisions of this section. Such application shall be filed for not less than sixty days for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, the officer issuing the certificate may direct such child to appear thereafter for physical examination before two physicians officially designated by the school board or committee, and in case such physicians shall certify in writing that they have separately examined such child and, that in their opinion, such child is at least fourteen years of age, such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be sufficient for the purpose of this section as to the age of such child.

The officer issuing the certificate shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent, guardian or custodian showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, date and place of birth, and present residence of such child, which affidavit must

be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor.

- Cf.* California, Acts of 1911, Chapter 56, Section 3.
Colorado, Child Labor Act of 1911, Section 8.
District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 4.
Massachusetts, Acts of 1909, Chapter 514, Sections 59, 60 and 58 as amended in 1910 and by Chapter 269, Acts of 1911, requiring a physician's certificate.
Michigan, Acts of 1909, No. 285, Section 10, as amended in 1911.
Minnesota, Acts of 1907, Chapter 299, Section 4.
Missouri, Revised Statutes of 1909, Section 1720, as amended in 1911.
Nebraska, Acts of 1907, Chapter 66, Sections 3 and 4.
New Hampshire, Act of 1911 relating to child labor, Section 10.
New York, Laws of 1909, Chapter 36, Sections 71 and 163.
North Dakota, Laws of 1909, Chapter 153, Section 4.
Ohio, General Code, Section 7766.
Oklahoma, Acts of 1909, page 629, Section 10.
Pennsylvania, Acts of 1909, No. 182, Section 8.
Rhode Island, Acts of 1910, Chapter 533, Section 1.
West Virginia, Acts of 1911, Chapter 60, Section 2.
Wisconsin, Laws of 1911, Chapter 479, Section 1728a-3.

SEC. 11. No employment certificate shall be issued until the child in question has personally appeared before and been examined by the officer issuing the certificate, nor until such officer, after making such examination, has signed and filed in his office a statement that the child can read intelligently and write legibly simple sentences in the English language, and is qualified in the studies enumerated in Section 13, and that, in his opinion, the child is fourteen years of age or upwards.

- Cf.* California, Acts of 1911, Chapter 456, Section 3.
Massachusetts, Acts of 1909, Chapter 514, Section 58, as amended in 1910, and by Chapter 269, Acts of 1911.
Michigan, Acts of 1909, No. 285, Section 10, as amended in 1911.
Minnesota, Acts of 1907, Chapter 299, Section 4.
Missouri, Revised Statutes of 1909, Section 1721, as amended in 1911.

Nebraska, Acts of 1907, Chapter 66, Section 4.
New York, Laws of 1909, Chapter 36, Sections 71 and 163.
North Dakota, Laws of 1909, Chapter 163, Section 4.
Oklahoma, Acts of 1909, page 629, Section 10.
Rhode Island, Acts of 1910, Chapter 533, Section 1.
West Virginia, Acts of 1911, Chapter 60, Section 2.

SEC. 12. Every such employment certificate shall state the name, sex, the date and place of birth and the place of residence of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and shall contain a statement of the proof of age accepted and shall certify that the papers required by the preceding sections have been duly examined, approved and filed, and that the child named in such certificate has appeared before the officer issuing the certificate and has been examined.

Every such certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. It shall show the date of its issue. A record giving all the facts contained on every certificate issued shall be kept on file in the office issuing the same, and also a record of the names and addresses of the children to whom certificates have been refused, together with the names of the schools which such children should attend and the reasons for refusal.

Cf. California, Acts of 1911, Chapter 456, Section 3.
Massachusetts, Acts of 1909, 514, Section 60.
Michigan, Acts of 1909, No. 285, Section 10, as amended in 1911.
Minnesota, Acts of 1907, Chapter 299, Section 5.
Missouri, Revised Statutes, 1909, Section 1722 (as amended in 1911).
Nebraska, Acts of 1907, Chapter 66, Section 5.
New York, Laws of 1909, Chapter 36, Sections 72 and 164.
North Dakota, Laws of 1909, Chapter 153, Sections 4 and 5.
Oklahoma, Acts of 1909, page 629, Section 11.
Pennsylvania, Acts of 1909, No. 182, Section 9.
Rhode Island, Acts of 1910, Chapter 533, Section 1.
West Virginia, Acts of 1911, Chapter 60, Section 2.
Wisconsin, Acts of 1911, Chapter 479, Section 1728a-3.

SEC. 13. The school record required by this act shall be filled out and signed by the principal or chief executive officer of the school which such child has last attended, and shall be furnished to a child who, after due examination and investigation, may be entitled thereto.

It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days, either during the twelve months previous to arriving at the age of fourteen years, or during the twelve months previous to applying for such school record, and is able to read intelligently and write legibly simple sentences in the English language, and had completed a course of study equivalent to five yearly grades in reading, spelling, writing, English language and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions.

Such school record shall also give the name, date of birth and residence of the child as shown on the records of the school and the name of the parent or guardian or custodian.

In case a child has attended more than one school during the twelve months previous to arriving at the age of fourteen years or during the twelve months previous to applying for such school record, the principal or chief executive officer of each school shall separately certify to the number of days attended by the child in such school during such period, and no employment certificate shall be issued to such child unless the total of the days so attended shall be at least one hundred and thirty days.

Cf. Maine, Acts of 1909, Chapter 257, Section 5.

Michigan, Acts of 1909, No. 285, Section 10, as amended in 1911.

Minnesota, Acts of 1907, Chapter 299, Section 6.

Nebraska, Acts of 1907, Chapter 66, Section 6.

New York, Laws of 1909, Chapter 36, Sections 73 and 165.

North Dakota, Laws of 1909, Chapter 153, Section 6.

Ohio, General Code, Sections 7766 and 7767.

Oregon, Acts of 1905, Chapter 208, Section 9.

West Virginia, Acts of 1911, Chapter 60, Section 2.

Wisconsin, Acts of 1911, Chapter 479, Section 1728a-3.

SEC. 14. The blank certificate and other papers required in the issuing of employment certificates shall be formulated by the chief factory inspector [or commissioner of labor, or state superintendent of public schools] and furnished by him to the local school boards or committees.

Cf. Ohio, General Code, Section 7766.

Massachusetts, Acts of 1911, Chapter 269, Section 1.

Nebraska, Acts of 1907, Chapter 66, Section 9.

Pennsylvania, Acts of 1909, No. 182, Section 10.

New Hampshire, Act of 1911 relating to child labor, Section 15.

West Virginia, Acts of 1911, Chapter 60, Section 2.

SEC. 15. The superintendent of schools or other person authorized to issue employment certificates shall transmit between the first and tenth days of each month to the office of the chief factory inspector [or commissioner of labor], upon blanks to be furnished by him, a list of the names of the children to whom certificates have been issued. Such lists shall give the name and address of the prospective employer and the nature of the occupation the child intends to engage in.

Cf. Illinois, Revised Statutes, Chapter 48, Section 26.

Minnesota, Acts of 1907, Chapter 299, Section 7.

Missouri, Revised Statutes, 1909, Section 1725 (as amended in 1911).

Nebraska, Acts of 1907, Chapter 66, Section 7.

New York, Laws of 1909, Chapter 36, Section 75.

Wisconsin, Acts of 1911, Chapter 479, Section 1728e-(2).

CHILDREN APPARENTLY UNDER SIXTEEN.

SEC. 16. An inspector of factories, truant officer [or attendance officer], or other officer charged with the enforcement of this act may make demand on any employer in or about whose place or establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not filed as required by this act, that such employer shall either furnish him, within ten days, satisfactory evidence that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child

to work in such place or establishment. The inspector of factories, truant officer [or attendance officer], or other officer charged with the enforcement of this act, shall require from such employer the same evidence of age of such child as is required upon the issuance of an employment certificate, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child.

This section is substantially in force in the following states:

Iowa, Acts of 1909, Chapter 141, Section 1.

Minnesota, Acts of 1907, Chapter 299, Section 2.

Nebraska, Acts of 1907, Chapter 66, Section 2.

New Hampshire, Act of 1911 relating to child labor, Section 19.

New York, Laws of 1909, Chapter 36, Sections 76 and 167.

Oklahoma, Acts of 1909, page 629, Section 8.

Rhode Island, Acts of 1910, Chapter 533, Section 1.

SEC. 17. In case any employer shall fail to produce and deliver to a factory inspector, truant officer [attendance officer], or other officer charged with the enforcement of this act, within ten days after demand made pursuant to Section 16 of this act, the evidence of age therein required, and shall thereafter continue to employ such child or permit or suffer such child to work in such place or establishment, proof of the making of such demand and of such failure to produce and file such evidence shall be *prima facie* evidence of the illegal employment of such child in any prosecution brought therefor.

Cf. Nebraska, Acts of 1907, Chapter 66, Section 2.

New York, Laws of 1909, Chapter 36, Sections 76 and 167.

Utah, Acts of 1911, Chapter 144, Section 13.

CHILDREN UNDER EIGHTEEN.

SEC. 18. No child under the age of eighteen years shall be employed, permitted or suffered to work (1) in, about or in connection with blast furnaces, docks, or wharves; (2) in the outside erection and repair of electric wires; (3) in the running or management of elevators, lifts or hoisting machines, or dynamos; (4) in oiling or cleaning machinery in motion; (5) in the

operation of emery wheels or any abrasive, polishing or buffing wheel where articles of the baser metals or iridium are manufactured; (6) at switch tending; (7) gate tending; (8) track repairing; (9) or as brakemen, firemen, engineers, motormen or conductors upon railroads; (10) or as railroad telegraph operators; (11) as pilots, firemen or engineers upon boats and vessels; (12) or in or about establishments wherein nitroglycerine, dynamite, dualin, guncotton, gunpowder or other high or dangerous explosives are manufactured, compounded or stored; (13) or in the manufacture of white or yellow phosphorus or phosphorus matches; (14) or in any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled; (15) or in any hotel, theater, concert hall, place of amusement, or any other establishment where intoxicating liquors are sold.

Cf. Massachusetts, Acts of 1902, Chapter 350, Section 1 (elevators).

Michigan, Acts of 1909, No. 295, Section 11, as amended 1911.

New York, Laws of 1909, Chapter 36, Section 93.

Pennsylvania, Acts of 1909, No. 182, Section 2.

Wisconsin, Laws of 1911, Chapter 479, Section 1728*f*.

SEC. 19. The state board of health may, from time to time, after hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under eighteen years of age is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under eighteen years of age to justify their exclusion therefrom.

No child under eighteen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the [Superior] Court from any such determination.

Cf. Massachusetts, Acts of 1909, Chapter 514, Section 75, as amended by Chapter 404, Acts of 1910.

PERSONS UNDER TWENTY-ONE.

SEC. 20. No person under twenty-one years of age shall be employed, permitted or suffered to work in, about or in connection with any saloon or bar-room where intoxicating liquors are sold.

Many states have this provision, *e. g.*:

Connecticut, General Statutes, 1902, Section 2682.

Vermont, Public Statute, 1906, Section 5130.

SEC. 21. No female under [twenty-one] years of age shall be employed, permitted or suffered to work in or about any (1) mine, (2) quarry, (3) or coal breaker, except in the office thereof, (4) or in oiling or cleaning machinery while in motion.

NOTE.—All states with mining laws prohibit employment of all females. *Females under twenty-one are here specified, as all reference to regulation of adult labor is avoided in this draft.*

Cf. New York, Laws of 1909, Chapter 36, Section 93, as amended in 1910, forbids females under 21 years of age from cleaning machinery in motion.

Michigan, Acts of 1909, No. 285, Section 11 (same).

SEC. 22. No female under twenty-one years of age shall be employed, permitted or suffered to work in any capacity where such employment compels her to remain standing constantly.

Every person who shall employ any female under [twenty-one] years of age in any place or establishment mentioned in Section 1 shall provide suitable seats, chairs or benches for the use of the females so employed, which shall be so placed as to be accessible to said employees; and shall permit the use of such seats, chairs or benches by them in so far as the nature of their work allows, and there shall be provided at least one seat to every three females.

The following states prohibit the employment of females at any occupation requiring constant standing:

Michigan, Acts of 1909, No. 285, Section 11 (21 years).

“Unnecessarily.”

Minnesota, Acts of 1907, Chapter 299, Section 1 (16 years).

New York, Laws of 1909, Chapter 316, Section 9 (16 years).

Ohio, General Code, Section 13005 (16 years).

Oklahoma, Act of 1909, page 629, Section 6 (16 years, males and females).

Many states require provision of seats for all female employees, *e. g.*:

California, Acts of 1889, Chapter 5, Section 5, as amended by Chapter 12, Acts of 1903.

Colorado, Annotated Statutes, Section 3604.

Connecticut, General Statutes, 1902, Section 4703.

Delaware, Revised Code, 1893, Chapter 127, Section 1.

District of Columbia, Acts of United States Congress, 1894-95, Chapter 192, Section 1.

Georgia, Code, 1895, Section 127.

Illinois, Revised Statutes, 1905, Chapter 49, Section 36.

Indiana, Annotated Statutes, Sections 2246, 7087j.

Iowa, Code, Section 4999.

Kansas, General Statutes, 1901, Section 3842.

Louisiana, Acts of 1908, Act 301, Section 13.

Massachusetts, Revised Laws of 1902, Chapter 106, Section 41.

Minnesota, Revised Laws, 1905, Section 1802.

Nebraska, Cobby's Annotated Statutes, 1909, Sections 6938, 6942.

New York, Laws of 1909, Chapter 36, Sections 17 and 170.

North Dakota, Laws of 1909, Chapter 153, Section 9.

Ohio, General Code, Section 1008.

Oklahoma, Acts of 1907-08, page 499, Article V, Section 17.

Oregon, Acts of 1907, Chapter 200, Section 2.

Pennsylvania, Acts of 1905, No. 226, Section 7.

South Carolina, Criminal Code, 1902, Section 333.

Virginia, Code, Section 3657a.

Wisconsin, Annotated Statutes, Section 1728-(1).

Florida makes the same provision as to seats apply to all employees. See General Statutes, 1906, Section 3235.

HOURS OF LABOR.

SEC. 23. No boy under the age of sixteen and no girl under the age of eighteen years shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in Section 1 (1) for more than six days in any one week, (2) nor more than forty-eight hours in any week,

(3) nor more than eight hours in any one day; (4) or before the hour of seven o'clock in the morning or after the hour of six o'clock in the evening. The presence of such child in any establishment during working hours shall be *prima facie* evidence of its employment therein.

This section prohibiting night work and limiting to an eight-hour day for children under sixteen, applies with slight variations in the following states:

Colorado, Child Labor Act of 1911, Section 12.

District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 8.

Illinois, Revised Statutes of 1905, Chapter 48, Section 201.

Kansas, Acts of 1909, Chapter 65, Section 2.

Missouri, Revised Statutes, 1909, Section 1716, as amended in 1911.

Nebraska, Acts of 1907, Chapter 66, Section 10.

New York, Laws of 1909, Chapter 36, Sections 77, (1) and 161 amended by laws of 1910, Chapter 387 (age, sixteen for both sexes; work in factories forbidden between 5 P. M. and 8 A. M.; in mercantile establishments between 7 P. M. and 8 A. M.).

North Dakota, Laws of 1909, Chapter 153, Section 7.

Ohio, General Code, Section 12996.

Oklahoma, Acts of 1909, page 629, Sections 6 and 7.

Wisconsin, Laws of 1911, Chapter 479, Section 1728c.

A number of other states prohibit night work under sixteen,
e. g.:

Kentucky, Acts of 1908, Chapter 66, Section 8.

Louisiana, 1908, Act 301, Section 4 prohibits night work, boys 16, girls 18; Section 9, "Presence of child *prima facie* evidence."

Indiana, Child Labor Act of 1911, Section 2 and 3.

Michigan, Acts of 1909, No. 285, Section 9, amended in 1911, forbids night work under 16 years; hours, 6 P. M. to 6 A. M.

SEC. 24. No boy under the age of eighteen years and no girl under the age of [twenty-one] years shall be employed, permitted or suffered to work in, about or in connection with any establishment or occupation named in Section 1 (1) for more than six days in any one week, (2) nor more than fifty-four hours in any week, (3) nor more than ten hours in any one day, (4) or

before the hour of six o'clock in the morning or after the hour of ten o'clock in the evening.

Cf. Missouri Revised Statutes, 1909, Section 7815, as amended in 1911, providing a 9-hour day and 54-hour week to all women.

California Acts of 1911, Chapter 456, Sections 1 and 2, providing a 9-hour day and a 54-hour week and no work between 10 P. M. and 5 A. M., under 18 years, in most employments. Another act provides an 8-hour day for all women in all establishments except canneries.

Massachusetts, Acts of 1909, Chapter 514, Section 48, as amended by Chapter 485, Acts of 1911, establishing a 54-hour week for minors and all women in manufacturing and mechanical establishments. Section 51 limits night work as in the above section, in all manufacturing establishments. Between 6 P. M. and 6 A. M. in textile factories.)

Michigan, Acts of 1909, No. 285, Section 9.

New York, Laws of 1909, Chapter 36, Sections 77 and 161 (as amended in 1910).

The constitutionality of the law regulating hours of employment of women and children has been recognized since its establishment by the Supreme Court of Massachusetts in 1876 (120 Mass. 385). So well established was this principle that, although many cases have been tried under a similar law in New York, no case has been carried to the Court of Appeals of New York.

A law regulating the hours of labor and fixing the maximum of ten hours a day for women in laundries was held constitutional in 1908 by the Supreme Court of the United States in the case of *Muller vs. Oregon*, 208 U. S. 412.

In the famous case of *Ritchie vs. People*, 244 Ill. 509, decided by the Supreme Court of Illinois in 1910, the constitutionality of the law limiting the employment of females in factories, laundries, etc., to 10 hours per day was upheld.

The case of *Low vs. Printing Co.*, 59 N. W. 362, decided by the Supreme Court of Nebraska in 1894, made clear that the objection to the law was that it aimed to prevent "persons legally competent to enter into contracts," etc. The facts seems clearly recognized that a minor child is not such a person.

The Supreme Court of California, in holding void an ordinance of the city of Los Angeles, which would regulate the hours of labor on all contracts, says: "If the service to be performed were . . . against public policy . . . or such as might be unfit for certain persons, for example, females or infants, the ordinance might be upheld," etc.

In the case of *Cantwell et al. vs. State of Mo.*, 179 Mo. 245, the Supreme Court of Missouri held that the Missouri eight-hour law for minors was valid, and its decision was affirmed by the Supreme Court of the United States on authority of 169 U. S. 366; 197 U. S. 11; 3 Pet. 280, and 179 Mo. 245.

Such a law was held constitutional in the case of *Commonwealth vs. Hamilton Mfg. Co.*, 120 Mass. 383.

The Pennsylvania law limiting hours of labor for adult females is constitutional. *State vs. Beatty*, 15 Superior Court, 5.

It was announced in June, 1911, by Attorney-General T. S. Hogan, of Ohio, that the law limiting employment of females to 54 hours a week is constitutional.

See also *Wenham vs. state*, 58 L. R. A. (Neb.) 825.

Washington vs. Buchanan, 59 L. R. A. (Wash.) 342.

SEC. 25. In cities [of the first or second class] no person under the age of twenty-one years shall be employed, permitted or suffered to work as a messenger for telegraph, telephone or messenger companies in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day.

The following states forbid the employment of night messengers under twenty-one:

New Jersey, Act passed in 1911, age limit for messengers, twenty-one, first class cities; eighteen all other cities.

New York, Laws of 1910, Chapter 342, Section 161a.

Utah, Acts of 1911, Chapter 144, Section 7.

Wisconsin, Laws of 1911, Chapter 479, Section 1728a-5.

SEC. 26. Every employer shall post and keep posted in a conspicuous place in every room where any boy under the age of eighteen, or any girl under the age of [twenty-one] years is employed, permitted or suffered to work, a printed notice stating the maximum number of hours such person may be required or permitted to work on each day of the week, the hours of commencing and stopping work, and the hours allowed for dinner or for other meals. The printed form of such notices shall be furnished by the chief inspector of factories [or commissioner of labor] and the employment of any minor for a longer time in any day than so stated, or at any time other than as stated in said printed notice shall be deemed a violation of the provisions of this act.

- Cf.* California, Acts of 1905, Chapter 18, Section 3, as amended in 1909.
 Connecticut, Laws of 1909, Chapter 220, Section 1.
 Kentucky, Acts of 1908, Chapter 66, Section 8 (applies to minors under sixteen years).
 Massachusetts, Acts of 1909, Chapter 514, Sections 47 and 48, as amended by Chapter 484, Acts of 1911. (Applies to minors under eighteen years and all women.)
 See court ruling, 120 Massachusetts, 383.
 Minnesota, Acts of 1907, Chapter 299, Section 8.
 Nebraska, Acts of 1907, Chapter 66, Section 10.
 New York, Laws of 1909, Chapter 36, Section 77.
 North Dakota, Laws of 1909, Chapter 153, Section 7.
 Ohio, General Code, Section 12998.
 Oklahoma, Acts of 1909, page 629, Section 8.
 Pennsylvania, Acts of 1905, No. 226, Sections 10 and 25.
 Wisconsin, Laws of 1911, Chapter 479, Section 1728c.

STREET TRADES.

Sec. 27. No boy under twelve years of age, and no girl under sixteen years of age shall, in any city [of the first or second class], distribute, sell, expose, or offer for sale (1) newspapers, (2) magazines or (3) periodicals in any street or public place.

The employment of children in street trades has not received the attention it deserves in this country. Many states are at present without any provision for its regulation. The most advanced steps have been taken in New York, Massachusetts, Oklahoma, Wisconsin, Utah, in the District of Columbia and in Hartford, Conn., and Cincinnati, Ohio.

- Cf.* District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 11.
 Missouri, Revised Laws of 1909, Section 1726a, as amended by Act of 1911.
 New Hampshire, Act of 1911 relating to child labor, Section 4.
 New York, Acts of 1909, Chapter 36, Section 220.
 Oklahoma, Acts of 1909, page 629, Section 4.
 Utah, Acts of 1911, Chapter 144, Section 9.
 Wisconsin, Laws of 1911, Chapter 439, Section 1728 (*p*).
 See also Ordinance No. 1211, City of Cincinnati, Ohio, 1909, Section 1.

The regulations of the Boston School Committee.
 Hartford, Conn., City ordinance relating to street trading.
 Holyoke, Mass., City ordinance relating to street trading.

SEC. 28. No boy under fourteen years of age and no girl under sixteen years of age shall, in any city [of the first or second class] be employed or permitted or suffered to work at any time as (1) a bootblack, or (2) in any other trade or occupation performed in any street or public place, or (3) in the distribution of hand bills or circulars, or (4) any other articles except newspapers, magazines and periodicals as hereinafter provided.

Cf. District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 11.

Wisconsin, Acts of 1911, Chapter 439, Section 1728 (q) and (r).

Cincinnati, O., Ordinance No. 1211 (1909), Section 2.

SEC. 29. No boy under sixteen years of age shall, in any city [of the first or second class], distribute, sell, expose or offer for sale in any street or public place any (1) newspapers, (2) magazines, (3) or periodicals, (4) or work in any of the trades or occupations mentioned in Section 28, unless he complies with all of the legal requirements concerning school attendance, and unless a permit and badge as hereinafter provided shall have been issued to him by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized by the school board or committee of the city or school district where such boy resides, upon the application in person of the parent, guardian or custodian of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian, then upon the application of his next friend, being an adult.

Cf. District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 12.

Massachusetts, Acts of 1910, Chapter 419, Section 1.

New York, Laws of 1909, Chapter 36, Section 221.

Utah, Acts of 1911, Chapter 144, Section 10.

Wisconsin, Laws of 1911, Chapter 439, Section 1728 (s).

SEC. 30. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and filed the following papers, duly executed, viz:

(1) Evidence that such boy is of the age required by Section 27 or 28, as the case may be. Such evidence of age shall consist

of the proof of age required for the issuing of an employment certificate as specified in Section 10, subdivision (4), of this act.

(2) The written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school with the grade such child shall have attained, and that he has reached the normal development of a child of his age and is physically and mentally fit for such employment and that he is able to do such work beside the regular school work required by law.

After having received, examined and placed on file such papers, the officer shall issue to the child a permit and badge; *provided*, that in the case of a boy between the ages of fourteen and sixteen having an employment certificate, such certificate shall be accepted by the officer issuing such permit and badge in lieu of any other requirements.

Principals or chief executive officers of schools shall keep complete lists of all children in their schools to whom permits and badges, as herein provided, have been granted.

Cf. District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 14.

New York, Laws of 1909, Chapter 36, Section 221.

Utah, Acts of 1911, Chapter 144, Section 10.

Wisconsin, Laws of 1911, Chapter 439, Section 1728 (*s*).

SEC. 31. Such permit shall state the name and the date and place of birth of the child, the name and address of the parent or guardian or custodian or next friend making application for such permit, and shall describe the color of the hair and eyes, the height and weight, and any distinguishing facial marks of such child and shall further state that the papers required by the preceding sections have duly examined and signed, and that the child named in such permit has personally appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit and the name of the child. Every such permit and every such badge on its reverse side shall be signed in the presence of the officer issuing the same by the child in whose name it is issued.

- Cf.* District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 14.
New York, Laws of 1909, Chapter 36, Section 222.
Utah, Acts of 1911, Chapter 144, Section 11.
Wisconsin, Acts of 1911, Chapter 439, Section 1728u.

SEC. 32. The badge provided for herein shall be worn conspicuously at all times by such child while so working. All such permits and badges shall expire annually on the first day of January, and no such permit or badge shall be authority beyond the period fixed therein for its duration. The color of the badge shall be changed each year.

No child to whom such permit and badge are issued shall transfer the same to any other person. He shall exhibit the same upon demand at any time to any officer charged with the duty of enforcing the provisions of this act relating to street trades.

- Cf.* District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 14.
New York, Laws of 1909, Chapter 36, Section 223.
Wisconsin, Acts of 1911, Chapter 439, Section 1728v.

SEC. 33. No child under sixteen to whom a permit and badge are issued as provided for in the preceding sections of this act shall distribute, sell, expose, or offer for sale, any newspapers, magazines or periodicals, or work at any of the trades or occupations mentioned in Section 28 in any street or public place (1) after eight o'clock in the evening, (2) or before six o'clock in the morning, (3) nor during the hours when the public schools in the city in which such child resides are in session, unless provided with an employment certificate.

- Cf.* District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 15.
New York, Laws of 1909, Chapter 36, Section 224 (prohibited hours, 10 P. M. to 6 A. M.).
Utah, Acts of 1911, Chapter 144, Section 12.
Wisconsin, Acts of 1911, Chapter 439, Section 1728w (prohibited hours for newsboys under fourteen in first-class cities are from 6.30 P. M. (in summer 7.30 P. M.) to 5 A. M., or in any street trade under sixteen during schools hours).

SEC. 34. Any child in any city [of the first or second class] who shall distribute, sell, expose or offer for sale newspapers, magazines or periodicals, or shall work at any at any of the trades or occupations mentioned in Section 28 in violation of any of the provisions of this act shall be deemed delinquent and may be arrested and brought before the juvenile court, if there be any juvenile court in the city where such child resides, or, if not, before any court or magistrate having jurisdiction over offenses committed by children, and shall be dealt with according to law. Upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any officer charged with the duty of enforcing this act, or of any police officer, truant officer [attendance officer] or probation officer of a juvenile court, the permit of any child who violates any of the provisions of this act, or who becomes delinquent or fails to comply with all the legal requirements concerning school attendance, may be revoked by the officer issuing the same, for a period of six months, and a badge taken from such child. The refusal of any child to surrender such permit and badge, or the working at any of the occupations above mentioned in any street or public place by any child after notice of the revocation of such permit shall be deemed a violation of this act.

Cf. Massachusetts, Acts of 1910, Chapter 419, Section 1.
New York, Laws of 1909, Chapter 36, Sections 225 and 226.

Wisconsin, Acts of 1911, Chapter 439, Section 1728*y*.

SEC. 35. The chief factory inspector [or commissioner of labor] or any inspector authorized by him shall enforce the provisions of the preceding sections relating to the employment of children in street trades.

Cf. Wisconsin, Laws of 1911, Chapter 439, Section 1728 (*x*).

GENERAL PROVISIONS.

SEC. 36. Inspectors of factories, truant officers [attendance officers] and other authorized inspectors may, within their respective districts or jurisdictions, visit and inspect at any time any place of employment mentioned in this act, and shall ascertain

whether any minors are employed therein contrary to the provisions of this act; and they shall report weekly to the school authorities any cases of children under sixteen years of age discharged for illegal employment; and truant officers shall also report the same to the chief or district factory inspector [or commissioner of labor].

It shall be the duty of factory inspectors, truant officers [attendance officers] and other officers charged with the enforcement of this act, to make complaints against any person violating any of the provisions of this act and to prosecute the same.

This shall not be construed as a limitation upon the right of other persons to make and prosecute such complaints.

This section adapted to the enforcing agencies in various states, is substantially in force in the following states:

California, Acts of 1909, Chapter 254, Section 4.

District of Columbia, Acts of United States Congress, 1907-08, Chapter 209, Section 7.

Illinois, Revised Statutes, 1905, Chapter 48, Sections 20 *h* and *l*.

Kansas, Acts of 1905, Chapter 278, Section 3.

Massachusetts, Acts of 1909, Chapter 514, Section 62.

Minnesota, Acts of 1907, Chapter 299, Section 10.

Nebraska, Acts of 1907, Chapter 66, Section 11.

New York, Laws of 1909, Chapter 36, Sections 62 and 172.

North Dakota, Laws of 1909, Chapter 153, Section 10.

Ohio, General Code, Sections 994, 7770.

Oregon, Acts of 1905, Chapter 208, Section 10.

South Carolina, Acts of 1909, No. 4, Section 15.

Wisconsin, Acts of 1911, Chapter 479, Section 1728a-4.

In the case of *State vs. Vickens*, 84 S. W. 908, the Supreme Court of Missouri held that the law authorizing the appointment of factory inspectors is a valid exercise of the police power of the state.

SEC. 37. A failure by an employer to produce to a truant officer [attendance officer], factory inspector, or other authorized inspector or officer charged with the enforcement of this act, any employment certificate or list required by this act shall be *prima facie* evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not so listed.

Cf. Indiana, Annotated Statutes, 1901, Section 7770 (general penalty clause).
Louisiana, 1908, Act 301, Section 11.
Massachusetts, Acts of 1909, Chapter 514, Section 64.
Minnesota, Acts of 1907, Chapter 299, Section 9.
Nebraska, Acts of 1907, Chapter 66, Section 11.
New York, Laws of 1909, Chapter 36, Section 167.
Oklahoma, Acts of 1909, page 629, Section 12.
Oregon, Acts of 1905, Chapter 208, Section 10.
Wisconsin, Laws of 1911, Chapter 479, Section 1728h (5).

SEC. 38. Nothing in this act shall prevent children of any age from receiving industrial education furnished by the United States, this state or any city or town in the state and duly approved by the state board of education or by [the school board or committee or] other duly constituted public authority.

PENALTIES.

SEC. 39. Any person, firm or corporation, agent or manager of any firm or corporation, who, whether for himself or for such firm or corporation, or by himself, or through agents, servants or foremen, employs any child and whoever having under his control as parent, guardian, custodian or otherwise, any child, permits or suffers such child to be employed or to work in violation of any of the provisions of this act, shall, for a first offense be punished by a fine of not less than five dollars nor more than fifty dollars; for a second offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

This section with somewhat different penalties is substantially in force in the following states:

California, Acts of 1905, Chapter 18, Sections 3 and 4 as amended in 1909.

Illinois, Revised Statutes of 1905, Chapter 48, Section 20m.

Iowa, Acts of 1906, Chapter 103, Section 5.

Kansas, Acts of 1905, Chapter 278, Section 4.
Louisiana, 1908, Act 301, Section 7.
Massachusetts, Acts of 1909, Chapter 514, Section 61.
Minnesota, Acts of 1907, Chapter 299, Section 9 (provides fines, but no imprisonment).
Nebraska, Acts of 1907, Chapter 66, Section 11.
New York, Penal Law, Art. 120, Section 1275.
North Dakota, Laws of 1909, Chapter 153, Section 10.
Ohio, General Code, Section 12972, 13007.
Oregon, Acts of 1911, Chapter 138, Sections 11 and 12.
Utah, Acts of 1911, Chapter 144, Section 14.
West Virginia, Acts of 1911, Chapter 60, Section 5.
Wisconsin, Acts of 1911, Chapter 479, Sections 1728 *h* and *i*.

It has been the policy of those drafting this uniform law to make the minimum penalty small, with a view to a more rigid enforcement of the various penalty sections. In nearly every state having well-established departments of factory inspection the penalties are heavier, both as to fines and imprisonments. In some instances it has been observed that the heavy minimum penalty tended to thwart the purpose of the law by causing courts or juries to fail to convict.

SEC. 40. Whoever continues to employ any child in violation of any of the provisions of this act, after being notified thereof in writing by a factory inspector, truant officer [attendance officer], or other officer charged with the enforcement of this act, shall, for every day thereafter that such employment continues, be fined not less than five nor more than twenty dollars.

Cf. Massachusetts, Acts of 1909, Chapter 514, Section 61.
Minnesota, Acts of 1907, Chapter 299, Section 9.
Nebraska, Acts of 1907, Chapter 66, Section 11.

SEC. 41. Any person, firm or corporation retaining an employment certificate in violation of Section 8 of this act shall be fined not less than five nor more than fifty dollars.

Cf. Massachusetts, Act of 1909, Chapter 514, Section 64.
Nebraska, Acts of 1907, Chapter 66, Section 11.
Ohio, General Code, Section 12975.
Oregon, Acts of 1905, Chapter 208, Section 10.
Wisconsin, Acts of 1911, Chapter 479, Section 1728*h* (4).

SEC. 42. Every employer who fails to procure and keep on file employment certificates for all children employed under the age of sixteen years, or who fails to keep and post lists, as provided in Section 6 of this act, shall be fined not less than five dollars nor more than one hundred dollars.

SEC. 43. Any employer who fails to post and keep posted the printed notices required by Section 26 of this act in the manner therein specified shall be fined not less than five dollars nor more than fifty dollars.

Cf. Massachusetts, Acts of 1909, Chapter 514, Section 49.

SEC. 44. Every employer who fails to provide suitable seats, chairs or benches and to allow the use of the same as provided in Section 22 of this act, shall be fined not less than five dollars nor more than one hundred dollars.

Cf. Massachusetts, Revised Laws, 1902, Chapter 106, Section 41.

Nebraska, Cobbey's Annotated Statutes, 1909, Sections 6939 and 6943.

New York, Consolidated Laws, Chapter 40, Section 1273.

SEC. 45. Any person, firm or corporation who (1) hinders or delays any factory inspector, truant officer [attendance officer], or any other officer charged with the enforcement of any of the provisions of this act in the performance of his or her duties, (2) or refuses to admit or locks out any such officer from any place which said inspectors or officers are authorized to inspect shall be punished by a fine of not less than five nor more than two hundred dollars, or by imprisonment for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

Cf. Iowa, Acts of 1906, Chapter 103, Section 5.

Wisconsin, Laws of 1911, Chapter 479, Section 1728 (h).

SEC. 46. Any inspector of factories, or other authorized inspector, truant officer [attendance officer], superintendent of schools or other person authorized to issue employment certificates or permits and badges as required by this act, or other person charged with the enforcement of any of the provisions of this act, who knowingly and wilfully violates or fails to comply with

any of the provisions of this act shall be fined not less than five nor more than one hundred dollars.

Cf. Massachusetts, Acts of 1909, Chapter 514, Section 62.

SEC. 47. Any person authorized to sign any certificate, affidavit or paper called for by this act, who knowingly certifies to any materially false statement therein, shall be fined not less than five dollars nor more than one hundred dollars.

Cf. California, Acts of 1905, Chapter 18, Section 3.

Michigan, Acts of 1909, No. 285, Section 10, amended in 1911.

Minnesota, Acts of 1907, Chapter 299, Section 9.

Nebraska, Acts of 1907, Chapter 66, Section 11.

New York, Consolidated Laws, Chapter 40, Section 1275.

SEC. 48. Any child working in or in connection with any of the establishments or places or in any of the occupations mentioned in this act, who refuses to give to the factory inspector or other authorized inspector or truant officer [attendance officer] his or her name, age and place of residence, shall be forthwith conducted by the inspector or truant officer [attendance officer] before the juvenile court if there be any juvenile court in the city where such child resides, or if not before any court or magistrate having jurisdiction of offenses committed by children, for examination and to be dealt with according to law.

SEC. 49. Any person who, either for himself or herself or as agent of any other person or of any corporation, furnishes or sells to any minor any article of any description with the knowledge that said minor intends to sell said article in violation of the provisions of this act, or who shall continue to furnish or sell articles of any description to a minor after having received written notice from any officer charged with the enforcement of this act, or from the officer issuing the permit and badge required by Section 29, that said minor is unlicensed to sell such articles, shall be punished by a fine of not less than five dollars or more than two hundred dollars, or by imprisonment for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

Cf. Massachusetts, Acts of 1910, Chapter 419, Section 1.

SEC. 50. This act may be cited as the Uniform Child Labor Law. It shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SEC. 51. All acts or parts of acts inconsistent with any of the provisions of this act are hereby repealed.

SEC. 52. This act shall take effect on the day of A. D. 19.....

NOTE.—*Words enclosed in brackets are suggestive only and may be varied to suit local conditons.*

REPORT OF THE COMMITTEE ON TAXATION.

The Committee on Taxation is a standing committee of the Association. It was created at the annual meeting in 1906 by an amendment to the Constitution.

In 1907 the committee reported that the field of inquiry was so vast that it was difficult to make a specific recommendation.

In 1908 its only report was that the International Tax Association had been organized and that if possible the committee should in some way co-operate with it.

In 1909 the report contained little but a suggestion that the American Bar Association, International Tax Association and the Commissioners on Uniform State Laws co-operate in trying to work out an inheritance tax law.

In 1910 the committee made no report.

In 1911 the Chairman of the Committee on Taxation as then constituted reported that it had not drawn on a small appropriation made for it by the Executive Committee of the Association to enable it to compile and digest the laws of the several states providing for taxation of inheritances preliminary to framing a model inheritance tax law, which at a future meeting it might present to the Association as a form which the Association could approve and recommend for adoption by the Legislatures of the various states. It asked for a renewal of an appropriation by the Association. This request to the Association was afterwards withdrawn, but the Executive Committee at its meeting later in the year voluntarily placed at the disposal of the committee five hundred dollars for its "expenses" as the letter of advice to its Chairman stated.

The committee, however, the membership of which as newly constituted was widely scattered, two of its members residing in Chicago, one in Florida, one in Tennessee and the fifth in New York, has had no meeting, incurred no "expenses" and drawn no money from the appropriation.

For this inaction the Chairman should bear and is willing to bear the responsibility. The members of the committee not

residing in Chicago were not summoned to a meeting by him because when other engagements and duties allowed him even a small portion of time for consideration of the proper action for the committee to take on a subject so broad as that which by the terms of its appointment had been referred to it, he became convinced that the time before the annual meeting was too short for any effective specialized work. Under these circumstances it would have been unjustifiable in his opinion to subject the individual members of the committee to the expenditure of time and money necessary for such a meeting, and much more so to use the funds of the Association for any such expenses.

But there was another and more convincing reason for inaction. The subject assigned to the committee by the Association is in its terms too broad to admit of any useful or helpful report by it or by any body similarly constituted. That subject should be strictly divided and limited if the committee is to be renewed or continued. If a uniform inheritance tax law is the object which the Association wishes to attain as was apparently suggested by the course of the short discussions in 1909 and 1911, this should be distinctly stated, and the work and consideration of the committee limited to that. But this even should be done only if it be thought that a committee of the American Bar Association rather than the Commissioners on Uniform Laws appointed for the various states is the proper body to undertake the work.

That this restricted work from some competent body is much needed goes without saying. The former Chairman of this committee in his verbal report to the Association in 1911 was within the truth in saying that under existing conditions "there is not only double taxation, but sometimes triple and even quadruple taxation."

But even if this matter of inheritance tax alone, or if the matter of any other one method of taxation by itself—federal, state or municipal—is to be the subject of detailed and specialized consideration, action and report, by a committee of this body, that committee, it is submitted, should be reorganized, provided with means sufficient to employ expert assistance in the collation, comparison and drafting necessary for any result

which would be useful, and composed of persons so situated and conditioned that they may meet frequently during the year and give a considerable portion of time to this work.

But if the intent of the Association was and is that its "Committee on Taxation" should be its agent or instrument in securing the practical result of a uniform and model inheritance law or, indeed, of a model income or excise law, or any other specific piece of fiscal legislation, it is, in our opinion, desirable that the question be again raised and submitted to the deliberation and decision of the Executive Committee whether some other body is not better qualified and equipped for the work, whether, for example, as before suggested, the Commissioners on Uniform State Laws, connected as they are with this Association, might not be the better instrumentality to do it, either by themselves or in collaboration with other bodies formed for the single purpose of investigation and reform into the general subject of taxation, a subject by all conceded to be of overwhelming and universal importance. This course would certainly be one more economical for this Association, the funds of which are necessarily limited and moderate in amount, and one in our view likely to be more effective. To this end your committee in closing its report will suggest a resolution asking for such an inquiry and for action thereon by the Executive Committee of the Association.

Before this is done, however, it is desired to present a few suggestions relating to the alternative proposition that this committee was created to formulate for the Association general views concerning a proper taxing system or systems for the United States, for the various states and for municipal corporations with the taxing power. In such a case no large appropriation and no provision for expert assistance is needed or should be made, for the reason that no useful or effective work by this committee or by any committee of this organization is possible under present conditions and at the present time, unless the miracle should happen of a substantial uniformity of view on general and fundamental principles of fiscal reform among not only the members of the committee, but also of the Association, whose servants they are. Such a miracle in

this time of political, social and economic unrest would be supereminently supernatural in a company such as ours, of diverse political, social and economic education and tendencies, united only in the hope of holding high the ideals of our profession, of reforming abuses that have crept therein and of establishing new methods of procedure where old ones have proved defective or outworn.

The problems of taxation generally considered and of the correct principles on which it should proceed seem to us under present conditions rather to belong to the domain of statesmanship and political economy than of jurisprudence.

The opinions of the individuals of the committee itself on the fundamental bases on which taxation should rest are probably as diverse as those of the membership of the Association, and no suggestion specific in details might meet the approval of all.

On tariff duties, on income taxes, discriminating or undiscriminating, graduated or universal, on excise taxes proper or analogous taxes on business generally or on particular classes of persons artificial or natural, on license fees, on diverse and graduated taxes affecting successions and inheritances and public franchises, grants and privileges, and on many other fiscal expedients, there would be certain to be wide and irreconcilable differences of opinion among the members of the Association and among the members of any representative committee of the Association. So it would be especially at this time of political agitation. But these subjects are all embraced within the general term "Taxation." Division of opinion on any one of these subjects would be no reason why on proper occasion and opportunity the American Bar Association should not take it up, investigate and discuss it, and formulate through a majority some recommendation concerning it, but fundamental differences of opinion on all or most of them taken up together in one general medley could lead only to inextricable confusion, to a babel of tongues and to delay in the real and important work of the Association for which the time at our disposal is already too short.

The present Chairman of the committee, speaking only for

himself, confesses and professes opinions in favor of more radical changes in taxation than would command the assent of the committee. If he deemed the occasion a fit one, nothing would be a more grateful task to him than to prepare and present to the Association an argument—even if it were in the form of a minority report—against most, if not all, of the present methods of taxation and the basic theories on which they rest and in favor of the positions, that taxes should be levied by governments directly, and as far as possible by a unified power—that they should be based not on consumption or on ability to pay, but on the benefits individually and severally received by the taxpayers from the government which levies them—that this principle would place on ground rents or the site value of land and on franchises and privileges dependent on the right of domain over land (since to the value of land the ultimate advantages of government all go) the main burden of supporting the government—that a tax on incomes is only justifiable if the sources and natures of the incomes taxed are distinguished and the wages of industry, skill and intelligence relieved from a tax which should fall on unearned incomes that are the product of monopoly or social mal-adjustments—that excise taxes should be used only when the pursuit or business taxed may properly be discouraged, as taxation does discourage every energy on which it falls—that inheritance taxes are but make-shifts for sounder and more fundamental fiscal expedients—that in the results of the greater or less approaches to such a system of taxation as he advocates that have been made during this last quarter of a century in Australasia, in German municipalities and in German colonies, in colonial Britain and even in Great Britain itself, are the proofs of its soundness and of its appeal to believers in democratic progress, and that in the agitation more or less advanced for the same theories in some of the United States lies the hope of the future for a more rational, less oppressive and altogether better scheme of raising the necessary revenues of their governments.

But he is fully aware that entirely independently of the fact that such an argument would be only the expression of his individual opinion and not the voice of the committee—no two of whom on such fundamental matters might be in accord—it

would be but an article in a propaganda, not apt even for a minority report from a committee which was undoubtedly appointed in the expectation, not that it would argue fundamental, economic or fiscal questions, but it would present some practical measures for adoption by the federal, state and municipal governments that would tend to the immediate reform of abuses that are administrative rather than economic and incidental and specific rather than general and fundamental.

For the reasons before given the committee as at present constituted does not believe that effective work by it in this direction is now practicable and doubts if it could be made so even by a reorganization of the committee without placing means at its disposal greater than it would be wise for this Association now to expend, since there are bodies in existence more adapted to this particular end.

Therefore it proposes to the Association the following resolution and recommends its adoption :

Be it Resolved, That the Executive Committee of the Association for the ensuing year take into consideration at an early day the question whether the standing committee on Taxation should be continued or abolished; that only in case the Executive Committee shall determine that a Committee on Taxation should be continued, shall any new appointment to membership in such a committee be made by the President for the ensuing year; that in case the Executive Committee shall not thus determine, the present members of the committee shall be held discharged from all duties in connection therewith and the Executive Committee shall propose to the Association at its next annual meeting suitable amendments to the Constitution and By-Laws abolishing said standing committee; but that if the Executive Committee shall determine that the Committee on Taxation shall be continued as a standing committee of this Association the Executive Committee shall further take into consideration a specific definition and limitation of the work of said Committee on Taxation and instruct the said committee which shall then be appointed by the President as to the particular scope of the investigation and action expected of it and make such appropriation for the expenses of said committee as may in view of said definition and expectation be by the Executive Committee deemed sufficient.

Respectfully submitted,

EDWARD O. BROWN,
Chairman.

REPORT
OF
COMPARATIVE LAW BUREAU OF THE AMERICAN BAR
ASSOCIATION.

To the American Bar Association:

In compliance with Section 7, Article XV, of your By-laws, as amended at the annual meeting in 1907, the Board of Managers of the Comparative Law Bureau presents the following annual report in detail as to the work and finances of the Bureau to June 1, 1912.

The Boston Book Company, the official publisher of the Bureau, reports a fair continuous sale of copies of the Visigothic Code, translated into English by S. P. Scott, a member of the Editorial Staff, and presented to the Bureau and published in 1910.

The Swiss Civil Code, which became effective January 1, 1912, translated into English and annotated with references to parallel provisions in other codes by Robert P. Shick and Charles Wetherill, of the Editorial Staff, has progressed so far toward publication that complete proofs have been received, one of which has been forwarded to Professor Huber, the draftsman of the Code, at Geneva, Switzerland, for his criticism, preliminary to preparing the introduction of the American edition, which he has promised. It is hoped that the book will be on sale in the early fall.

Mr. Scott is still working upon the translation of "Las Siete Partidas," but the magnitude and importance of the undertaking make it impossible at this time to fix a date when the translation will be published.

The Annual Bulletin of 1912, consisting of an edition of eight thousand copies, has just been issued and sent to the several members of the American Bar Association and the members composing the State Bar Associations affiliated with the Bureau as members and also to the various law schools, law libraries and other institutions having membership in the Bureau.

The friendly relations with kindred associations of other countries have been maintained with satisfaction.

The financial statement is as follows:

ASSETS AND INCOME.

| | | |
|--|----------|-----------------|
| Balance on hand June 1, 1911..... | | \$250.20 |
| Dues from members and Foreign Correspondents.. | \$574.00 | |
| Advertisements in 1911 Bulletin..... | 150.00 | |
| Sales of Bulletin..... | 37.11 | |
| Appropriation of American Bar Association..... | 900.00 | |
| | | <hr/> 1661.11 |
| | | <hr/> \$1911.31 |

EXPENDITURES.

| | | |
|---|-----------|-----------------|
| Printing and postage of 1911 Annual Bulletin..... | \$1437.48 | |
| Stationery, expressage and general postage during 1911 | 52.17 | |
| | | <hr/> \$1489.65 |
| Balance in hands of Treasurer June 1, 1912..... | | <hr/> \$421.66 |

Respectfully submitted,

SIMEON E. BALDWIN, *Director*,
WM. W. SMITHERS, *Secretary*,
EUGENE C. MASSIE, *Treasurer*.

REPORT

OF THE

SPECIAL COMMITTEE TO SUGGEST REMEDIES AND FORMULATE PROPOSED LAWS TO PREVENT DELAY AND UNNECESSARY COST IN LITIGATION.

To the American Bar Association:

The special committee appointed at the meeting of this Association in 1907, and continued at each annual meeting since then, was charged with the duty of considering carefully alleged evils in judicial administration and remedial procedure, and suggesting remedies and formulating proposed laws.

We were authorized at the last meeting to present to Congress at its next session the bills heretofore reported by the committee and recommended by this Association, in such form as to obviate as far as possible the objections thereto that have been taken in Congress, but retaining the essential principle of the bills heretofore recommended by the Association. These bills were specifically recommended by the President in his annual message, December, 1911.

The Association at its last meeting approved the recommendations of our committee and adopted the resolutions which accompanied its report.

Your committee has brought to the attention of the United States Supreme Court the amendment to Admiralty Rule No. 44 reported by the Committee. This amendment is now under consideration by the Supreme Court. If adopted it would give to litigants in admiralty courts throughout the United States the right to have the testimony taken in open court, subject to the provisions of the statute in regard to depositions *de bene esse*. This right they now have in some circuits, but not in all.

Your committee also brought the portion of the report relating to Equity Practice to the attention of the Justices of the Supreme Court of the United States. These Justices have had the matter of amendments to the Equity Rules under consideration. Committees of the Bar in each circuit have recommended numerous

amendments which are also under consideration. It is expected that at the October term next ensuing, the Supreme Court will promulgate its decision upon these various amendments.

Your committee has also procured the introduction in Congress of the bills recommended by it and approved by the Association.

The Technical Error Bill (Schedule A.) was introduced in the Senate by Mr. Nelson and in the House by Mr. Clayton (S. 3750—H. R. 16,461).

The Law and Equity Bill, Schedule C of our last report, was introduced in the House by Mr. Clayton, of Alabama, and in the Senate by Mr. Root of New York (S. 4029—H. R. 16,460).

The bill in reference to Writs of Error in Constitutional Cases, Schedule D, was introduced in the Senate by Senator Nelson and in the House by Mr. Clayton (S. 3749—H. R. 16,459).

All these bills were referred to the Judiciary Committee of each House. Your committee were heard before these committees on the 25th of January. We have had frequent correspondence with the members of the different committees and also with members of the Senate and House. We submitted a brief to each committee, which was printed in the report of the proceedings. In a word, we have done all in our power to procure the passage of these bills.

The Technical Error Bill was reported favorably in the House and became 203 on the House Calendar. It passed the House with some formal amendments in May. This bill was amended and reported favorably in the Senate and came up on the Senate Calendar on the 7th of May, 1912, but was laid aside at the request of Senator Bacon, of Georgia, and Senator Rayner, of Maryland, and has not since that been brought up for action. We annex a copy of the Senate amended bill marked Schedule A. A copy of the bill as it passed the House is also annexed, marked Schedule B. A copy of the bill as recommended by the Association in 1911 is annexed and marked Schedule C.

The Law and Equity Bill passed the Senate February 5, 1912. We append a copy, marked Schedule D. Meanwhile another bill introduced by Mr. Clayton, H. R. 18,236, passed the House and went to the Senate. This bill authorized the transfer to the law docket of a suit brought in equity which should be held to be

erroneously brought on that side of the court, but it did not give the corresponding right to a suitor who had by mistake brought an action at law. This second bill of Mr. Clayton's also authorized an amendment at any stage of the case, of a defective allegation of citizenship. This bill has not been reported in the Senate, the Senate Committee being apparently of the opinion that on the whole the bill which had been reported by it and which had passed the Senate was in more desirable form.

The bill in reference to Writs of Error in Constitutional Cases was amended in the Senate so as to provide that where the decision of the highest court of the state is in favor of the claim that a state statute is in violation of the Constitution of the United States, a review could be had in the Supreme Court by certiorari. This amendment does not give a suitor the right to a writ of error in such cases as was provided for by the Association Bill. After a conference amongst ourselves, your committee came to the conclusion that this amendment was not seriously objectionable, and that it would be wise for the committee to accept it, which we did. This bill, however, has not passed the House. A copy of the amended bill is annexed and marked Schedule E.

It is possible that these various bills may all be disposed of in Congress at the present session, but in the present condition of the business in that body, it seems to your committee very probable that they will all go over until the next session. The reasons given in our previous reports for the adoption of these several bills lead us to recommend that the committee be continued with instructions to urge upon Congress at its next session the adoption of any of these bills which shall not by that time have been adopted.

In connection with this subject your committee would call the special attention of the Association to the progress that has been made since our last report in the adoption of the reform recommended by the Association in reference to Technical Errors. A bill to the same effect as that recommended by the Association was adopted by the Legislature of the State of New York, Chapter 380, Laws of 1912. A similar act has been adopted in Ohio. In New Jersey a Practice Act, even more comprehensive in scope, was adopted March 28, 1912 (Chapter 231, Laws of 1912). This act contains only 34 sections. Appended thereto is a schedule of

rules of court, which are to remain in force until amended or altered by the Supreme Court. Also appended thereto is a schedule of forms. These forms are very similar to those which have been adopted in the High Court of Justice in England. And the same day on which the Practice Act was adopted, another act (Chapter 233, Laws of 1912) was approved, which is in substance, though not in form, the same as the Law and Equity Bill recommended by this Association.

Some sections of this New Jersey act seem to us so admirable in form that we append a copy of them marked Schedule F. Many sections of this act are taken verbatim from the report of this committee, made at the Detroit meeting in 1909.

Your committee therefore recommend for adoption the following resolution:

Resolved, That the Special Committee to Suggest Remedies and Formulate Proposed Laws be continued with the powers heretofore conferred upon it and that it be instructed to take such steps as it shall deem expedient to procure the passage, at the next session of the Congress of the United States, of the bills heretofore recommended by this Association, as the same have been amended by the Judiciary Committees of the respective Houses of Congress.

All of which is respectfully submitted.

EVERETT P. WHEELER, N. Y.

FRANK IRVINE, N. Y.

H. D. ESTABROOK, N. Y.

ROSCOE POUND, MASS.

E. T. SANFORD, TENN.

W. R. CURRAN, ILL.

RUSSELL WHITMAN, ILL.

W. A. BLOUNT, FLA.

J. G. SLONECKER, KANSAS.

HANNIBAL E. HAMLIN, ME.

R. E. L. SANER, TEXAS.

T. M. PIERCE, MO.

JOHN S. MILLER, ILL.

JOHN D. LAWSON, MO.

Milwaukee, August 1912.

SCHEDULE A.

SENATE AMENDMENT.

S. 5917. REPORT 559, CALENDAR No. 506.

A BILL

RELATING TO PROCEDURE IN UNITED STATES COURTS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no judgment shall be set aside or reversed or new trial granted by any court of the United States in any case, civil or criminal, on the ground of misdirection of the jury or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless in the opinion of the court to which application is made, after an examination of the entire cause, it shall appear that the error complained of has injuriously affected the substantial rights of the parties. The trial judge may in any civil case submit to the jury in connection with the general verdict specific issues of fact arising upon the pleadings and evidence, reserving any question of law arising in the case for subsequent argument and decision, and he and any court to which the case shall thereafter be taken on writ of error shall have the power to direct judgment to be entered either upon the verdict or upon the special findings, if conclusive upon the merits.

SCHEDULE B.

HOUSE AMENDMENT. H. R. 16,461.

A BILL

TO REGULATE THE JUDICIAL PROCEDURE OF THE COURTS OF THE UNITED STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two hundred and sixty-nine of the act approved March third, nineteen hundred and eleven, entitled "An act to codify, revise,

and amend the laws relating to the judiciary" be, and the same is hereby, amended so as to read as follows:

"SEC. 269. That no judgment, decree, or order shall be set aside, or reversed, or new trial granted, by any court of the United States in any case, civil or criminal, on account of any error which does not injuriously affect the substantial rights of the party complaining. The trial judge may, in his discretion, in any case submit to the jury the issues of fact arising upon the pleadings, reserving any question of law arising in the case for subsequent argument and decision, and he and any court to which the case shall thereafter be taken on writ of error shall have the power to direct judgment to be entered either upon the verdict or upon the point reserved, if conclusive, as its judgment upon such point may require."

SCHEDULE C.

BAR ASSOCIATION BILL.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, No judgment shall be set aside, or reversed, or new trial granted, by any court of the United States in any case, civil or criminal, on the ground of misdirection of the jury or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless, in the opinion of the court to which application is made, after an examination of the entire cause, it shall appear that the error complained of has injuriously affected the substantial rights of the parties. The trial judge may in any case submit to the jury the issues of fact arising upon the pleadings, reserving any question of law arising in the case for subsequent argument and decision, and he and any court to which the case shall thereafter be taken on writ of error shall have the power to direct judgment to be entered either upon the verdict or upon the point reserved, if conclusive, as its judgment upon such point reserved may require.

Passed the House unanimously, Feb. 6, 1911.

SCHEDULE D.

S. 4029. PASSED SENATE FEBRUARY 5, 1912.

IN THE HOUSE OF REPRESENTATIVES FEBRUARY 6, 1912.

REFERRED TO THE COMMITTEE ON THE JUDICIARY.

AN ACT

TO AMEND CHAPTER ELEVEN OF THE JUDICIAL CODE.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter eleven of the Judicial Code, entitled "Provisions common to more than one court," shall be amended by adding at the end thereof new sections, to be known as sections two hundred and seventy-four A, and two hundred and seventy-four B, to read as follows:

"SEC. 274 A. In case any of said courts shall find that a suit at law should have been brought in equity or a suit in equity should have been brought at law, the court shall order any amendments to the pleadings which may be necessary to conform them to the proper practice. Any party to the suit shall have the right, at any stage of the cause, to amend his pleadings so as to obviate the objection that his suit was not brought on the right side of the court. The cause shall proceed and be determined upon such amended pleadings. All testimony taken before such amendment shall stand as testimony in the cause with like effect as if the pleadings had been originally in the amended form.

"SEC. 274 B. In all actions at law equitable defenses may be interposed by answer, plea, or replication without the necessity of filing a bill on the equity side of the court. The defendant shall have the same rights in such case as if he had a bill embodying the defense or seeking the relief prayed for in such answer or plea. Equitable relief respecting the subject matter of the suit may thus be obtained by answer or plea. In case affirmative relief is prayed in such answer or plea the plaintiff shall file a replication. Review of the judgment or decree entered in such case shall be regulated by rule of court. Whether such review be sought by writ of error or by appeal, the appellate court shall have full power to render such judgment upon the record as law and justice shall require."

SCHEDULE E.

S. 3749. REPORT No. 560.

IN THE SENATE OF THE UNITED STATES, DECEMBER 13, 1911.

A BILL

TO AMEND AN ACT ENTITLED "AN ACT TO CODIFY, REVISE, AND
AMEND THE LAWS RELATING TO THE JUDICIARY,"

APPROVED MARCH 3, 1911.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two hundred and thirty-seven of chapter ten of an act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, is hereby amended by adding thereto the following:

"It shall be competent for the Supreme Court to require, by certiorari or otherwise, any such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ of error to the Supreme Court, although the decision in such case may have been against the validity of the state statute or authority claimed to be repugnant to the Constitution, treaties, or laws of the United States, or in favor of the title, right, privilege, or immunity claimed under the Constitution, treaty, statute, commission, or authority of the United States."

SCHEDULE F.

THE PRACTICE ACT (1912), OF NEW JERSEY.

SECTION 19. "*Reserving Questions of Law; Submitting Case in Alternative.*—The court may reserve any question of law and may submit the case to the jury upon alternative propositions of law in respect to the right to relief or damages. In either of such cases judgment shall be entered (and if appealed shall be dealt with), according to the right as it shall be finally determined."

SEC. 25. "*Bills of Exceptions; Writs of Error; Appeals.*—Bills of exceptions and writs of error in civil cases are abolished. In lieu of a writ of error, an appeal may be taken in any case in which the appellant would, heretofore, have been entitled to that writ. Subject to rules, such appeal shall be in the nature of a

rehearing upon any question of law involved in any ruling, order, or judgment below."

SEC. 26. "*Same Subject*.—An appeal is a step in the cause, and is deemed to remove to the appellate court the entire record of the cause and all orders, proceedings and documents made, taken or filed therein, whether or not they are actually included in the transcript of the record sent to that court."

SEC. 27. "*Reversal or New Trial on Merits*.—No judgment shall be reversed, or new trial granted on the ground of misdirection, or the improper admission or exclusion of evidence, or for error as to matter of pleading or procedure, unless, after examination of the whole case, it shall appear that the error injuriously affected the substantial rights of a party."

SEC. 28. "*Additional Evidence Upon Appeal*.—Upon appeal, or on application for a new trial, the court in which the appeal or application shall be pending may, in its discretion, take additional evidence by affidavit or deposition, or by reference; provided, that the error complained of is lack of proof of some matter capable of proof by record or other incontrovertible evidence, defective certification, or failure to lay the proper foundation for evidence which can, in fact, without involving some question for a jury, be shown to be competent."

Besides the general power to make rules previously conferred by law upon the Supreme Court of New Jersey, the following power is given to that court in order "to give effect to the provisions of this act and to otherwise simplify judicial procedure."

"Such rules shall supersede (so far as they conflict with) statutory and common law regulations heretofore existing."

GENERAL RULES.

SEC. 5. "*Rules May Be Suspended*.—These rules shall be considered as general rules for the government of the court and the conducting of causes; and as the design of them is to facilitate business and advance justice, they may be relaxed or dispensed with by the court in any case where it shall be manifest to the court that a strict adherence to them will work surprise or injustice."

SEC. 62. "*Preliminary References*.—Within ten days after a cause shall be at issue, either party may take out a summons, substantially in the form in Schedule B, and serve the same upon the opposite party or his attorney at least four days before the return day. The summons need not be served upon a party who is in default. The court may, on its own motion, at any time, order the preliminary reference herein provided for."

SEC. 63. "Upon the return of the summons or at any adjournment of the matter, the commissioner, after hearing the parties or their attorneys (but not their evidence) shall, on the application of any party, make such order as the court might make and as may be just in respect to the following matters, subject to an appeal within five days to a judge of the court in which the action is pending:

"Objections to pleadings (other than those provided for in rules 26 and 38) amendments thereof, and leave for additional pleadings;

"Settlements of issues;

"Bills of particulars;

"Admissions;

"Interrogatories;

"Discovery of, and inspection of books, papers or other documents;

"Examination of parties before trial;

"Any other interlocutory matter preliminary to, and in preparation for trial, but not including postponement of trial.

"The order of the commissioner shall be deemed the order of the court until reversed.

"All motions in respect of any of the foregoing matters, whether made before or after issuing the commissioner's summons, may be heard and determined by the commissioner subject to appeal as aforesaid.

"The commissioner's order shall be as nearly as practicable in the form stated in Schedule B."

SEC. 67. "*Damages*.—Where damages are to be determined in respect of any continuing cause of action, they shall be determined to the time of the assessment of trial."

SEC. 72. "*New Trial as to Part*.—In case a new trial is granted it shall only be a new trial of the question or questions with respect to which the verdict or decision is found to be wrong, if separable."

SEC. 73. "*New Trial as to Damages Only*.—When a new trial is ordered because the damages are excessive or inadequate, and for no other reason, the verdict shall be set aside only in respect of damages, and shall stand good in all other respects."

SPECIAL REPORT

OF THE

COMMITTEE ON COMPENSATION FOR INDUSTRIAL ACCIDENTS AND THEIR PREVENTION.

To the American Bar Association:

Your Committee on Compensation for Industrial Accidents and their Prevention, originally appointed at the meeting of the Association in 1910 with power "to co-operate with the National Civic Federation in this work," and which was continued at the meeting of the Association in 1911, with power "to report upon such plan as it may approve in regard to compensation for industrial accidents and their prevention," respectfully reports:

Your committee has had several meetings during the year, one of which was at Washington and held simultaneously with the annual meeting of the National Civic Federation, and another of which was held in New York simultaneously with a meeting of the Compensation Committee, also met at the same time in conjunction with such a committee of the Commission on Uniform Laws and a committee of the Compensation Department of the National Civic Federation.

During the year much has transpired in regard to the adoption of compensation laws, both state and federal; but, although our committee has carefully examined many of the laws adopted and proposed, it is not now prepared to recommend any particular form for adoption as a uniform law on this subject to be endorsed by this Association. The consensus of opinion, however, is that uniform laws for compensation for industrial accidents should be enacted by all the states and by the United States within its jurisdiction. Such a law should, in the opinion of your committee, be based on the following principles:

1. It should be compulsory and exclusive of other remedies for injuries sustained in course of industrial employment.
2. It should apply to all industrial operations or at least to all industrial organizations above a certain limit of size.

3. It should apply to all accidents occurring in the course of industrial operations regardless of the fault of anyone, self-inflicted injuries not being counted as accidents.

4. The compensation should be adjudicated by a prompt, simple and inexpensive procedure.

5. The compensation should be paid in regular installments continuing during the disability, or in case of death during dependent period of beneficiaries.

6. The compensation should be properly proportioned to the wages received before injury.

7. The compensation should be paid with as near absolute certainty as possible, in the most convenient manner, and there should be adequate security for deferred payments.

Your committee is not now prepared to make any further suggestions as to the details of a compensation law, or the extent to which the state should control or participate in, insure and adjust liability for industrial accidents, and will be better prepared to report on this branch of the subject after some of the laws have been enacted, and those which have been enacted shall have been more fully tested.

Your committee, however, is of the opinion that a very important branch of the subject referred to is the prevention of industrial accidents and that every effort should be made to procure the adoption of uniform laws for the proper safeguarding of industrial employees from accident, and that this element should always be considered in connection with any scheme for compensation for industrial accidents.

Your committee, therefore, submits this report and asks leave that it may upon further consideration make a final or further report at the next meeting of this Association.

Respectfully submitted,

CHARLES HENRY BUTLER, *Chairman*,
THOMAS W. SHELTON,
ALPHEUS H. SNOW,
HUGH V. MERCER,
ALBERT RITCHIE,
ERNST FREUND.

REPORT
OF THE
SPECIAL COMMITTEE ON GOVERNMENT LIENS ON REAL
ESTATE.

To the American Bar Association:

Your Special Committee on Government Liens on Real Estate begs leave to submit the following report:

Your committee, as we understand it, is charged with the duty of securing legislation to prevent the hardships imposed upon innocent purchasers and encumbrancers by Section 3186 of the Revised Statutes of the United States. That section reads as follows:

“If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment list was received by the collector, except when otherwise provided, until paid, with the interest, penalties and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person.”

In the case of the United States *vs.* Snyder, 149 U. S. 210, the Supreme Court held that the lien created by Section 3186 is a valid and binding lien even against a *bona fide* purchaser or encumbrancer in good faith, for value, without knowledge or notice of the existence of such lien. The Federal Statute contains no provision for giving notice, constructive or otherwise, of the lien created by said statute, and under the decision of the Supreme Court in the case cited it was held that the recording acts of the several states have no force or effect as against the lien of the Government. The lien created by the statute is so comprehensive that it covers all the property or rights to property of the delinquent situated anywhere in the United States, so that any person taking title to real estate is subjected to the impossible task of ascertaining whether any person who has at any time owned the real estate has been delinquent in the payment of the taxes

referred to while the owner of the real estate in question. The business carried on under the Internal Revenue law may have been conducted at a great distance from the property affected by the secret lien created under said Section 3186.

Your committee reports that the chairman of your committee has taken up the matter with the Honorable James R. Mann, minority floor leader of the House of Representatives, with a view of bringing about an amendment of the section in question. The matter was referred by Mr. Mann to the Honorable John A. Sterling, of the judiciary committee of the House of Representatives, and at the request of Mr. Sterling your committee drafted an amendment and forwarded the same to Mr. Sterling, with the request that he secure the passage of the same. The amendment prepared by your committee, with some minor changes, has been introduced in the House of Representatives as H. R. 25,508, and is as follows:

A BILL

TO AMEND SECTION THIRTY-ONE HUNDRED AND EIGHTY-SIX OF THE REVISED STATUTES OF THE UNITED STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section thirty-one hundred and eighty-six of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand the amount shall be a lien in favor of the United States from the time it was due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person: Provided, however, that such lien shall not take effect as to any mortgagee or purchaser, without notice thereof, until after notice of such lien shall be filed by the collector in the office of the register or recorder of deeds of the county or counties within which the property subject to such lien shall be situated."

Your committee is in doubt as to whether the present Congress will be able to pass this bill, and for that reason your committee begs to suggest that at least one member of the present committee be re-appointed by the incoming president of this Association as it is believed that better results will be obtained than by the appointment of an entirely new committee, as we believe that

comparatively few members of the Bar are aware of the comprehensive character of the lien created by Section 3186 under the construction given to the same by the Supreme Court in the case of *United States vs. Snyder*; and the time which will be required by a new committee to become informed as to the situation would be considerable. Some sort of bill was introduced in the House of Representatives in 1906, but the bill never ripened into legislation and the matter seems to have been dropped as we are unable to learn that any effort has since been made to obtain the desired legislation until the matter was taken up by your committee.

Your committee is of the opinion that the subject is one of great importance to the profession and to the country at large and ought to receive close attention.

Respectfully submitted,

JOHN T. RICHARDS, *Chairman*,
JOS. M. STAYTON,
JOHN H. VOORHEES.

REPORT

OF THE

SPECIAL COMMITTEE TO PRESENT BILLS TO CONGRESS
RELATING TO COURTS OF ADMIRALTY.

To the American Bar Association:

The Special Committee to present to Congress certain bills relating to the courts of the United States sitting in admiralty, respectfully reports as follows, viz.:

On August 25, 1909, the Association approved three bills proposed to be introduced in the Congress of the United States, which had theretofore received the endorsement of the Maritime Law Association of America.

One of these bills, relating to Liens on Vessels for Repairs, Supplies and other Necessaries, was subsequently enacted into law by Congress and received the Executive approval on June 23, 1910.

Since its last report to the Association, the Special Committee has continued active measures to procure the passage of the other two bills, which relate respectively to the maintenance of actions for death on the high seas and other navigable waters, and to suits against the United States for damages caused by vessels owned or operated by the Government.

The Maritime Law Association of America, in which the movement for the proposed reforms originated, held on May 3, 1912, in New York City its annual meeting, at which after full discussion and consideration of recent suggestion and criticism, that Association approved certain changes in the phraseology of the bills, to which the Special Committee of the Bar Association assented in exercise of the discretion on it conferred by the resolution of August 30, 1911, adopting its last report.

On May 22 and 23, 1912, respectively, the bills as recast were re-introduced in the Senate and the House of Representatives, and were thereupon referred to the Judiciary Committees of the respective Houses. They have not yet been actually reported,

although the Special Committee has used every effort to procure favorable action thereon. On August 6, 1912, however, a public hearing on both bills was held by the Judiciary Committee of the House, at which various parties appeared in the interest of the measures and arguments were presented, the Special Committee being represented by its Chairman.

The committee believes that there is a fair prospect to procure the ultimate adoption of the bills and it recommends that the committee be further continued with directions to endeavor by all proper measures to procure the passage thereof in conformity with the policy heretofore declared by the Association.

All of which is respectfully submitted.

GEORGE WHITELOCK, *Chairman*,
EDWARD G. BENEDICT,
ROBERT M. HUGHES,
ALDIS B. BROWNE,
BENJAMIN THOMPSON.

August 10, 1912.

REPORT
OF THE
COMMITTEE TO OPPOSE THE JUDICIAL RECALL.

To the American Bar Association:

Your committee appointed under a resolution adopted by the Association, has the honor to submit the following report:

This committee was appointed under a resolution reported by Francis Rawle, of Pennsylvania, Henry St. George Tucker, of Virginia, Alton B. Parker, of New York, Jacob M. Dickinson, of Tennessee, Frederick W. Lehmann, of Missouri, and Charles F. Libby, of Maine, each a former President of your Association, which resolution was adopted at your last annual meeting at the session of August 31, 1911, and directed the present committee to "take such steps as it may deem best to expose the fallacy of judicial recall."

By consent of all the members a sub-committee was appointed, consisting of Mr. Kellogg, of Minnesota, as Chairman, Mr. Carr, of Iowa, Mr. Trabue, of Kentucky, Mr. Hornblower, of New York, Mr. Maxwell, of Ohio, Mr. Page, of Illinois, Mr. Rogers, of Colorado, and Mr. Smith, of Kansas.

At the request of Mr. Rogers, Mr. Frank E. Gove, of Denver, was substituted in his place.

The sub-committee met at Chicago for the purpose of formulating a plan of action. Mr. Gregory, your President and the Honorary Chairman of the committee, also participated in the deliberations.

In view of the limited means at the disposal of the committee for carrying on this campaign, it was deemed best that the work be done principally through local bar associations.

Accordingly, under the direction of the sub-committee and with the approval of the full committee, work has been conducted along the following lines:

Letters were addressed by the Chairman of your committee to the member of this committee in each state, suggesting that

unless a regular meeting of the bar association of his state was to be held before the next annual meeting of this Association, he procure to be called, if possible, a special meeting to take action upon the subject of judicial recall, and also, where practicable, to have county and city associations do the same; that at such meeting the fullest opportunity for discussion of the question be given; that definite action be taken, in a report or declaration of principles, and that the widest publicity be given to this action, in order that there might be stimulated general public interest and full and intelligent discussion. In this manner it was deemed that the interest of the individual members of this Association and of state, county and city bar associations would be aroused and the people would receive the benefit of this discussion. Your committee believes that the results have justified this conclusion. It has been the object of your committee to invite and procure the greatest degree of public discussion of this important question both by members of the Bar and the people generally, because we believe that the more intelligent investigation is given to the subject the less danger there is of the application of the recall to the judiciary. Under this plan of action we are pleased to report that the bar associations of many states have taken action and that such action has been universally opposed to the principle of judicial recall. In nearly every case the majority against the judicial recall was very large.

In a number of the states, meetings of the bar associations, where action will undoubtedly be taken, have not yet been held. In a few states, after very careful investigation by the member of the local committee, it was found that there was no general sentiment in favor of the judicial recall, and it was deemed unnecessary to bring up the subject.

Very few legislatures have been in session since your committee commenced this work, and we cannot therefore report action by these bodies. In Ohio the Constitutional Convention, which was in session until about June 1, 1912, after very full discussion of the subject, declined to apply the principle of the recall to the judges, but it provided by Section 38 of Article II of the proposed constitution, that laws should be passed providing for the prompt

removal from office, upon complaint and hearing, of all officers, including state officers, judges and members of the General Assembly, for any misconduct involving moral turpitude or for other cause provided by law. It was further provided that this method of removal should be in addition to impeachment or other method authorized by the constitution. This is substantially the system in existence in Massachusetts, New York, and several other states, where judges may be removed from office by joint action of the two chambers of the legislature. It will be noticed that under the proposed constitution of Ohio a judge can only be removed for cause after complaint and hearing. This is entirely different in principle from the judicial recall by the vote of the electorate of the district in which the judge presides.

Your committee understands that in addition to California and Oregon, where the judicial recall exists, the only states which have taken action looking to its adoption, so far as we have been informed, are the states of Arizona, Colorado, Nevada, and North Dakota, where constitutional amendments are now pending.

Special efforts have been made by Mr. Ellinwood in Arizona to diffuse general information among the electors of that state, and under his direction your committee is carrying on a campaign by sending to the entire electorate speeches of various senators, representatives and other public men, on this subject. Over 25,000 copies of these have already been sent out, and we hope that by this means and the public discussion of this question, favorable action may be had by the electorate of that state.

In North Dakota the annual meeting of the bar association is to take place on September 3 and 4, when we believe that strong action will be taken against the recall. The member of your committee, Mr. Bronson, of that state, is carrying on a campaign, by correspondence and personal interviews with the members of the Bar, which has resulted in much favorable discussion upon the subject.

There has been a remarkable demand for literature upon this subject, evidencing great public interest, and a very large number of addresses have been delivered by prominent men, or articles and pamphlets written, and by distribution and through

the press these speeches and pamphlets have been given a wide publicity. Many of these addresses have been sent to the members of your committee, to the members of the American Bar Association, to the members of the legislatures in certain states, to public men, and to a considerable extent to the general public where applications have been made and where your committee has had the means of distributing them. Among the more prominent documents thus used, were the addresses of President Taft and Senator Root before the New York State Bar Association, January 19, 1912; "The Recall of Judges and Judicial Decisions," by Augustus P. Gardner, of Massachusetts, delivered in the United States House of Representatives April 4, 1912; "The Constitution and its Makers," by Henry Cabot Lodge, delivered before the Literary and Historical Association of North Carolina, November 28, 1911; the speech of George Sutherland in the United States Senate on the admission of Arizona, in 1911; the 1911 Report of the Minnesota State Bar Association, and a part of the 1912 Report of the Illinois State Bar Association, containing discussions on both sides of the subject; "The New Despotism," by Justice W. P. Stafford of the Supreme Court of the District of Columbia, before the New York County Lawyers' Association, February 17, 1912; "Current Politics and Civic Duty," by Hugh H. Brown, of Tonopah, at the University of Nevada, May 15, 1912; Rome G. Brown's latest paper on the subject, "The Judicial Recall—A Fallacy Repugnant to Constitutional Government," reprint from *The Annals* of the American Academy of Political and Social Science, September, 1912; and "Constitutional Morality," by Wm. D. Guthrie, of the New York Bar, before the Pennsylvania State Bar Association, June 25, 1912.

We deem it important that the members of the American Bar Association should have for reference in the annual report a list of the publications on this important subject. Therefore, appended to this report is a bibliography prepared for the most part by Mr. Rome G. Brown, of Minneapolis.

Your committee recommends that this work be continued by the American Bar Association. It recognizes to the fullest extent that our government is a representative democracy, and that the

people have the right ultimately to adopt, and will adopt, any form of government they desire. It should be the object of the Bar of the country, with unselfish devotion to duty, to foster and encourage the best thought upon this subject and to inculcate those principles of government best calculated to preserve the liberties and insure the prosperity and happiness of the people.

We recognize that there are defects in the administration of justice, as there are in all branches of the government, which are of necessity subject to the limitations of human infirmity. Those defects which have called for reforms and which are now attracting the attention of the Bar and of the country, consist principally of the delays and expense incident to trials in the federal and many of the state courts. These defects it is the duty of all lawyers to use their influence to remedy, and we believe that the Bar is now taking an active part in these reforms. The judges of the Supreme Court of the United States have taken steps to reform the rules of practice in the federal courts, and have called upon the Bar of the country for suggestions. Without exception the committees of the Bar throughout the country have recommended the simplification of practice so as to expedite business and save expense to litigants. In many of the states the statutes providing the forms of procedure and practice are cumbersome and lead to delays and great expense to the people, but this is principally the fault of the law and not of the judges. The lawyers should, and we believe do, recognize these evils, which are no more incident to the courts than other evils are incident to other branches of the government. We should attempt to simplify the practice, to make the remedies more speedy and less expensive, and to obviate the reversal of judgments on technicalities not affecting the merits of causes, so as to keep the procedure and generally the administration of justice abreast with the progression of the times and to meet the changing conditions of our rapidly developing civilization. We believe that when this is done much of the agitation for judicial recall will disappear; that this agitation is an incident of a general reform movement towards a higher standard of business, commercial integrity, and of political and civic administration, and is not caused by any inherent defect in our judicial system.

It is not the intention of this committee to make an extended argument—this has been so effectively done by many statesmen and publicists within the last year that we could not hope to add anything upon the subject—but to state briefly the principle upon which we believe such opposition should be made.

We maintain that the recall applied to judges will tend to deprive the public of judges of ability, character, high sense of duty, and a due regard to enlightened public sentiment; that such a judiciary is absolutely necessary to the existence of a constitutional democracy—we mean one having a written constitution placing limitations and restraints upon the executive and legislative power. Absolute democracy means the right of the changing majority of the people to rule, without any limitations or restraints whatever upon their power. It is demonstrable that to maintain a constitutional democracy it is necessary to vest in some department of government the power to decide whether the executive or legislative branches of the government have exceeded their authority or not. This power, under our government, was wisely vested in the judiciary. To make the judges subservient to the will of the majority at any time expressed, or to submit to a vote of the majority of the people the question of whether the executive or legislative branches have or have not exceeded their authority, of necessity does away with the restrictions of constitutional government. In other words, the majority of the people who at any particular time adopt a law under such a system of government, would decide whether the law contravenes the constitution or not. It must be evident to every student of government that this means absolute democracy or the rule of the majority without regard to constitutional restraint. The statesmen who framed this government sought to build upon firmer foundations than all the governments which had come and gone in the course of centuries. They were familiar with the abuses of governmental power. They had before them the examples and failures of unlimited democracies and monarchies, and what is commonly known as the constitutional monarchy of England. They chose a middle ground, recognizing to the fullest extent the right and ability of the people for self-government, and, guarding against abuses of power, they framed

a constitutional representative democracy. The question is, did they choose wisely. Shall we continue the form of government which has met the approval and received the encomiums of the wisest statesmen of the age, has stood the test of trial for more than a century, has survived the perils of civil war, or shall we go back to those pure, unlimited democracies which have been tried at different stages of the world's history and have ended either in anarchy or despotism? The very cornerstone of this form of government is an independent judiciary to decide whether the executive or legislature has exceeded constitutional authority, as well as to pass upon and settle personal and property rights between individuals. These constitutional guaranties were established for the protection of the people against the abuses of governmental power. In all governments since the dawn of civilization there is one universally conceded principle—that there are times when the people must have protection against the excesses of power. Let us mention some of these guaranties which, under our form of government, it is the province of the court to maintain. The federal constitution prohibits Congress from passing any bill of attainder, and a like limitation is placed upon the states. This was to guard the people against the danger of being condemned, by Congress or by state legislatures, without trial under the forms of law. These bills of attainder were common in the English Parliament during the seventeenth century. Other provisions guarantee the right to the writ of habeas corpus; trial by jury; freedom of speech and of religious belief; the right of the people to peaceably assemble; and to be secure in their persons, houses, papers and effects against unreasonable searches and seizures; that no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury; that no person shall be twice put in jeopardy of life or limb; or be compelled in any criminal case to be a witness against himself; nor deprived of life, liberty or property without due process of law; that private property shall not be taken for public use without compensation; the protection of all persons against excessive bail, fines, cruel and unusual punishments; and other like provisions. These were all adopted to guard against wrongs to which the people had been subjected

under republics, unlimited democracies, constitutional monarchies and despotisms.

We hear much complaint about the courts declaring laws unconstitutional, and undoubtedly there have been cases where courts have taken too narrow a view and have declared unconstitutional laws which have been in the interest of public advancement, but these are incidents of any system of government, and we should bend our energies to correct the abuses rather than to destroy the system. The very foundation of our structure of government is an impartial judiciary to construe and enforce the provisions of the constitution made for the protection of personal liberty and property. By no other means can a constitutional government be maintained. Of what value or benefit to the people are limitations upon the power of legislatures, or the majority of the people, if the majority may at any time violate them without a department of the government to stay its hands? To continue the efficiency of our form of government, it is necessary to maintain the independence and integrity of each branch, the executive, the legislative and the judicial. The independence of the judiciary is of the greatest importance because, of necessity, they are called upon to pass upon the acts of the other two branches.

The application of the recall to an ordinary official may be a question of expediency, but it is not fundamentally wrong. To apply it to the judiciary is in violation of those principles of government which ages of experience have demonstrated to be wise. In the states and in the federal government we have the right of impeachment, and in several of the states the right of removal of a judge by the legislature. If the right of impeachment is not sufficient, an adequate remedy can be created for the removal for conduct inconsistent with his office after complaint and an opportunity to be heard in his defense. In this way the independence of the judiciary is maintained, and a judge is removed simply for incapacity or misconduct in office, after having the charges made known to him and an opportunity to vindicate his honor.

Your committee will not consider in this report any particular law applying the recall to the judiciary, because, if the principle of recall could be applied with safety to the judiciary, defects

in the forms of laws might be remedied, but the principle we believe to be dangerous and objectionable and subversive of good government. In any such system the judge is not recalled simply because of misconduct in office—for this may be accomplished by impeachment or removal after an opportunity to be heard—but because his decisions do not meet with popular approval. Stop for a moment and think of the situation where a judge is passing upon some question of the construction of the constitution, the power of the legislature to pass some law, or some executive act which is challenged as being in violation of the fundamental law of the land, and because he may have the courage to decide against what for the moment may be the popular view, the correctness of his legal judgment may be tried in the uncertain tribunal of an election; that when a judge charges a jury or pronounces a judgment of the law between man and man it may be practically revised by the electors of his district. In our judgment such a course is but little short of submitting legal questions and the constitutional rights of the citizen to a vote of the people.

The question is not what should the constitution be—the people may change that—but shall the citizen be entitled to the protection of the constitution which has been adopted and remains unchanged? It is perfectly idle to say that this system would not take from the judiciary its self-reliance and self-respect. It is said that the judges should be subservient to the popular will. We do not deny that the judges should be alive to the great principles of human progress and development of government—that is one thing—but to decide from time to time what the popular will may demand is another thing. If the popular will or the will of the majority itself, suddenly expressed, is to be the absolute law of the land, why protect the people by constitutional provisions which mark down the limit of legislative and executive power? Why not leave it to the popular will as expressed from time to time?

Again, under the system of judicial recall, there is no possible way of insuring to the judge a trial by popular vote upon the issue thus raised. There is no evidence introduced, no rules which the experience of ages has found necessary to the determination of issues, but the voter may cast his ballot to recall the judge, from

prejudice, from a desire to elect some one else, for political reasons, or for any reason which may actuate him at the time, and the judge be thus recalled, his office degraded, his reputation ruined, with no opportunity for a trial of the charges which have been preferred against him except to appeal to the electors, through the press, or take the stump in his own defense, in which case he might be called upon to defend the correctness of his legal decisions before the electors of his district.

The advocates of this system claim that it is in the interest of the common people. This we deny. For more than three hundred years the greatest bulwark for the protection of the mass of the people has been the courts. There never was a time in our country when any man, however poor or humble, could not apply to the courts and be assured of protection. Is it any reproach upon the courts that they have extended the same protection to the rich and powerful, when assailed by popular prejudice? The same law which would deny protection to the rich or confiscate the property of corporations, might take the cottage or the liberty of the humblest citizen. You cannot attack the courts, and take from them the independence of judges, without endangering the foundations of personal security.

We have enjoyed for so many years the protection of wise and liberal constitutional government that we cannot realize that there is any danger of ever losing it, but history should admonish us that the moments of self-satisfaction and confident feeling of perfect security are the times of greatest danger. The breaking down of constitutional safeguards does not come by open attack upon free institutions, but under the guise of the popular will. Such encroachments of power in the assumed interests of popular reform are the most subtle and dangerous of all. Do not let the courts become the subject of attack by every disappointed litigant, envious lawyer or domineering political boss. We call upon the lawyers of this country to use their influence to counteract a movement which we believe to be dangerous to the permanency of the government and to the liberty of the citizen. We can best do this by fully recognizing the public sentiment upon this question. We must not be blind to conditions which exist. The courts should be, and generally are, alive to a proper enlightened

public progress. Nevertheless, there are evils to be eradicated, and changes which are necessary to keep the administration of justice in harmony with the changing industrial, economic and social conditions of the country. We should individually and as an association exert our utmost influence to bring about these reforms, to remove the causes for discontent, to maintain the high standard of the Bench and the Bar, and to preserve unblemished those principles of our government which experience has shown to be wise.

Respectfully submitted,

LAWRENCE COOPER,
S. H. REID,
EVERETT E. ELLINWOOD,
GEORGE B. ROSE,
CURTIS H. LINDLEY,
FRANK E. GOVE,
WILLIAM BROSMITH,
WILLARD SAULSBURY,
CHAPIN BROWN,
F. M. SIMONTON,
ALEXANDER R. LAWTON,
DAVID L. WITHINGTON,
JAMES H. HAWLEY,
GEORGE T. PAGE,
SAMUEL O. PICKENS,
E. M. CARR,
CHARLES BLOOD SMITH,
EDMUND F. TRABUE,
EDWIN T. MERRICK,
ISAAC W. DYER,
WILLIAM L. MARBURY,
JEREMIAH SMITH, JR.,
SAMUEL T. DOUGLAS,
JOHN M. ALLEN,
JOHN F. LEE,
L. P. SANDERS,

FRANK B. KELLOGG, *Chairman*,
WILLIAM D. MCHUGH,
HUGH H. BROWN,
FRANK S. STREETER,
WILLIAM H. CORBIN,
WILLIAM C. REID,
WILLIAM B. HORNBLOWER,
HARRY SKINNER,
H. A. BRONSON,
LAWRENCE MAXWELL,
J. R. KEATON,
FREDERICK V. HOLMAN,
RODNEY A. MERCUR,
M. RODRIGUEZ-SERRA,
THOMAS A. JENCKES,
P. ALSTIN WILLCOX,
NORMAN T. A. MASON,
ALBERT W. BIGGS,
W. H. BURGESS,
E. B. CRITCHLOW,
GEORGE B. YOUNG,
EPPA HUNTON, JR.,
CHARLES E. SHEPARD,
D. J. F. STROTHER,
BURR W. JONES,
JOHN W. LACEY,

Committee.

APPENDIX.

A SELECTED BIBLIOGRAPHY ON THE JUDICIAL RECALL.

- Direct Legislation by the People, by Cree. Chicago: McClurg & Co., 1892.
- The Referendum, Initiative and Recall in America, by Oberholzer. New York: Scribner's, 1911.
- The Initiative, Referendum and Recall. National Municipal League Series, edited by Munro. New York: Appleton, 1912.
- Discussions as to the Recall Amendment, July, 1911, Transactions of the Commonwealth Club of California.
- The Reform of Legal Procedure, by Moorfield Storey. Yale University Press, 1912.
- The Referendum in Switzerland, by Deploige.
- The Courts and the New Social Questions, by Edward Q. Keasbey. Address delivered at sixteenth annual meeting Maryland State Bar Association, June 29, 1911.
- The Recall as Applied to the Judiciary. Speech by Hon. Paul Howland, of Ohio, in Congress, May 18, 1911.
- Congressional Debates in Congress, April to August, 1911, on admission of Arizona, and particularly the numbers for May 18, 22, and 23, and June 23.
- The Recall of Judges, by Fink. North American Review, May, 1911.
- The Recall, by Schaeffner. Wis. Lib. Com. Bulletin No. 12, December, 1907.
- The Initiative and Referendum and Recall of Judges Criticized and Condemned. Paper by Fred A. Baker, of the Detroit, Mich., Bar.
- The Recall of Judges. Editorial in The Independent, June 1, 1911.
- The Constitution of New Mexico. Letters and addresses by Frank W. Clancy and others on the Initiative, Referendum and Recall, 1910.
- The Recall of Judges—Argument in Opposition, by Rome G. Brown. Address delivered before Minnesota State Bar Association, July 18, 1911. S. Doc. No. 649, May 8, 1912.
- Veto Messages of President Taft on admission of New Mexico and Arizona, August 15, 1911. H. Doc. No. 106.
- Representative as against Direct Government, by Samuel McCall. Atlantic Monthly, October, 1911.

- Criticising the Courts, by George W. Alger. *Atlantic Monthly*, November, 1911.
- Strengthening the Power of the Executive. Address by Gov. O'Neal, of Alabama, September 12, 1911.
- Annual Address before the American Bar Association, by President Edgar H. Farrar, August 30, 1911.
- Progressive State Legislation, by W. B. Hale. *World's Work*, August, 1911.
- The Scope and Purpose of Sociological Jurisprudence, by Roscoe Pound. *Harvard Law Review Association*, 1912.
- Representative Government and the Common Law—A Study of the Initiative and Referendum. Address before the Chamber of Commerce of the State of New York by Gov. O'Neal, of Alabama, November 16, 1911.
- Address of Charles B. Stuart, of Oklahoma City, before the Oklahoma State Bar Association, December 23, 1911.
- The Constitution and its Makers. Address before the Literary and Historical Association, of North Carolina, at Raleigh, November 28, 1911, by Henry Cabot Lodge. *S. Doc. No. 122*, December 5, 1911. Also *North American Review*, July, 1912.
- Addresses by President Taft and by Senator Root before New York State Bar Association, January 19, 1912.
- The Operation of the Recall in Oregon, by James G. Barnett, of University of Oregon. *American Political Science Review*, February, 1912.
- The New Despotism. Address by Judge W. P. Stafford before New York County Lawyers' Association, February 17, 1912. *S. Doc. No. 344*, February 26, 1912.
- The Recall from the Standpoint of Kentucky Legal History, by Dean C. B. Seymour, of the Law Department of the University of Louisville. *Yale Law Journal*, March, 1912.
- The Judiciary and Progress. Address by President Taft at Toledo, March 8, 1912. *S. Doc. No. 408*, March 13, 1912; also see address of President Taft before Swedish-American Republican League, Congress Hall, Chicago, March 9, 1912. *S. Doc. No. 452*, March 22, 1912.
- Address on the Recall, by J. B. Foraker, before the Constitutional Convention of Ohio, March 14, 1912. *S. Doc. No. 445*, March 20, 1912.
- Constitutions and Courts. Address by Justice Rousseau A. Burch, of Kansas Supreme Court, March 30, 1912.

The Recall of Judges and Judicial Decisions, by Augustus P. Gardner, of Massachusetts. Delivered in United States House of Representatives, April 4, 1912.

The Recall of Judges, by John H. Hazelton. S. Doc. No. 723, May 27, 1912.

Current Politics and Civic Duty. Commencement address by Hugh H. Brown, of Tonopah, Nev., president Nevada State Bar Association, at University of Nevada, May 15, 1912.

Shall We Change Our Plan of Government? Address by Hon. N. C. Young, of Fargo, N. Dak., former justice of North Dakota Supreme Court. S. Doc. No. 865, July 1, 1912.

American Democracy. Address at Summit, N. J., May 30, 1912, by Hon. Eugene G. Hay.

The Unrest as to the Administration of Law, by Albert W. Biggs, of Memphis, Tenn. Annual address before Texas State Bar Association at Galveston, July 3, 1912.

Constitutional Morality, by W. D. Guthrie, of New York City. Address before Pennsylvania State Bar Association, June 25, 1912; North American Review, August, 1912.

Constitutional Chaos, by Charles H. Hamill, The Forum, July, 1912.

Thoughts Suggested by Recent Attacks on Representative Government, by Sidney C. Eastman, of the Chicago Bar, 1912.

The Recall of Judges and of Judicial Decisions, address by Charles E. Shepard before the Seattle Bar Association, June 26, 1912.

The Significance of the Recall of Judges and of Judicial Decisions, by Karl T. Frederick, Atlantic Monthly, July, 1912.

The Pending Revolution, address by Alfred P. Thom, of Washington, D. C., before Alabama State Bar Association, July 12, 1912.

Why Should We Change Our Form of Government? Address by Nicholas Murray Butler, President of Columbia University, before the Commercial Club of St. Louis, November 27, 1911. Printed January 3, 1912, S. Doc. No. 328; published in book form by Scribner's, 1912.

New Dangers to Majority Rule. address by Judson King before Political Science Club of the University of Washington, March 6, 1912. Printed as S. Doc. No. 897, August 5, 1912.

Which Charter? By Francis B. James, published by Trade and Transportation Bureau, Washington, D. C., 1912.

The Judicial Recall, addresses by Frank B. Kellogg, of St. Paul, Minn., before Maryland State Bar Association, July 3, 1912, and before Ohio State Bar Association, July 10, 1912.

The Independence of the Judiciary the Safeguard of Free Institutions, address by William B. Hornblower, of New York City, to the graduating class of Yale Law School, June 17, 1912.

An Independent Judiciary, address by Oscar A. Trippet before the California Bar Association, Los Angeles, December 6, 1910.

The Initiative, Referendum and Recall, by Noble Smithson, of Knoxville, Tenn., annual address, before Tennessee Bar Association, 1912.

Address of William A. Ketcham before the Indiana Bar Association, March, 1912.

Address of W. A. Blount, president of the Florida State Bar Association, at the annual meeting held in June, 1912.

Address of C. G. Saunders, president of the Iowa State Bar Association, at the annual meeting held in 1912.

The Judicial Recall—A Fallacy Repugnant to Constitutional Government, by Rome G. Brown, of Minneapolis, Minn., The Annals of the American Academy of Political and Social Science, September, 1912; S. Doc. No. 892, Aug. 3, 1912.

The above are generally in opposition to the judicial recall.

But in favor thereof there have appeared, besides the various editorials and articles in The Outlook, the following:

Popular v. Delegated Government. Speech by Senator Bourne, of Oregon, in the United States Senate, May 5, 1910.

The Recall of Judges, by Miles Poindexter. Editorial Review, November, 1911. S. Doc. No. 472, March 28, 1912.

The Right of the People to Rule. Address by ex-President Roosevelt, Carnegie Hall, New York, March 20, 1912. S. Doc. No. 473, March 28, 1912.

Labor's Reasons for the Enactment of the Wilson Anti-Injunction Bill, by Samuel Gompers. S. Doc. No. 440, March 19, 1912.

A Plain Talk About the Recall, by Frank A. Munsey. Munsey's, May, 1912.

Recall of Judges—Argument in Support, by James Manahan, before Minnesota State Bar Association, July 19, 1911. Minnesota State Bar Proceedings.

Do our Courts stand in the way of Social and Economic Justice? Speech by William J. Gaynor, Mayor of New York City, at Yale University, May 7, 1912.

Progressive Democracy—The People and the Courts, advocating disregard of constitutional prohibition in instances where such disregard shall be approved by popular vote. *The Outlook*, August 17, 1912.

The following are other recent books on the subject :

Documents on the State-wide Initiative, Referendum and Recall, by Beard and Shultz. Macmillan, \$2. net.

Government by All the People, by Wilcox. Macmillan, \$1.50 net.

The Democratic Mistake, by Arthur G. Sedgwick. Scribner's, 1912.

Majority Rule and The Judiciary: An Examination of Current Proposals for Constitutional Changes Affecting the Relation of the Courts to Legislation, by William L. Ransom, with an introduction by Theodore Roosevelt, Scribner's, 1912.

In *Case and Comment*, November, 1911, there are articles pro and con on the Initiative, Referendum and Recall, by Senator Bourne, of Oregon, Representative Littleton, of New York, Governor Wilson, of New Jersey, Senator Root, of New York, and others.

In the *Yale Law Journal* of June, 1912, is a discussion by Senator Owen in favor and Frederick N. Judson against.

The September, 1912, number of *The Annals of the American Academy of Political and Social Science* is devoted to various discussions pro and con on the Initiative, Referendum and Recall, including the Judicial Recall.

REPORT
OF THE
COMMITTEE ON PUBLICITY OF THE AMERICAN BAR
ASSOCIATION, 1912.

To the American Bar Association:

This committee was inaugurated within the present year pursuant to a resolution of the Executive Committee. Shortly after the formation of the committee, a suggestion was received in the following terms:

“One difficulty about giving publicity in connection with the American Bar Association work has been that the newspapers have been sent the regular published committee reports, which are useless for press purposes as the newspaper seldom makes use of anything that has already been issued to the public. A small, simple, popular digest of these reports, not to exceed one page, should be attached to the cover of them and plainly stamped ‘Advance Information for Newspaper Use Only’ to be released upon certain dates.”

Pursuant to this suggestion, the Chairman of this committee requested the Secretary to circulate a suggestion among the Chairmen of the various committees, calling their attention to the desirability of the course above suggested, and adding:

“In preparing the report of your committee for presentation to the annual meeting of the Association, will you kindly bear this suggestion in mind and send to the Secretary, for the use of the Committee on Publicity, a digest of your report as indicated.”

A similar suggestion was made to the Secretary in respect to similar action on the part of those who are to deliver formal addresses at the annual meeting.

The Chairman of this committee, promptly after its organization, entered into communication with the president and general manager of the Associated Press, and received cordial encouragement for the work of the committee as an aid in the circulation of

news through the press, and particularly through the agency of the Associated Press. The committee is, to a certain extent, at least, aware of the point of view of the collector of news for circulation in public print. Concisely stated, it is as follows: What is usual is not news; and there is demand for what the word *news* itself imports; namely, novelty; and, although a fact may be new, it may nevertheless not be of sufficient public interest to circulate generally, so that, in substance, news is necessarily a matter of public interest characterized by novelty. Your committee has been advised that, in order that the *news* of this Association may be given wide circulation, a sufficient number of the summaries above referred to, and, so far as the Association desires, also of completed documents, including committee reports and public addresses, should be delivered to the press at least ten days before the meeting of the Association, so that the matter can be sent by mail to the press throughout the United States in advance of the meeting, with instructions not to release until ordered by wire. There are several reasons why this course should be pursued in order to secure the publication of this news. In the first place, it promotes accuracy. In the second, it is a fact that many desirable items are excluded in the haste of final moments, either because wires are crowded or compositors are pressed with other work, whereas, if the matter is received by a newspaper by mail in advance it can be properly considered by the editorial departments which make their own extracts and the composition can be made at leisure. This is much more likely to lead to the actual publication of the material than if sent by wire at the last minute through some press association. In order to assure this method of publication, it is deemed essential to have about 1000 extra copies of all matters to be given in this form to the press, printed at least ten days in advance of delivery or publication. The committee recommends compliance with these suggestions. It also invites additional suggestions in order that its operations may be perfected and its benefit to the Association as an agency for the furnishing of accurate news may be demonstrated.

After conference with the Secretary of the Association, a circular letter, designed to secure compliance with the views above

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A similar suggestion was made to the Secretary in respect to similar action on the part of those who are to deliver formal addresses at the annual meeting.

The Chairman of this committee, promptly after its organization, entered into communication with the president and general manager of the Associated Press, and received cordial encouragement for the work of the committee as an aid in the circulation of

news through the press, and particularly through the agency of the Associated Press. The committee is, to a certain extent, at least, aware of the point of view of the collector of news for circulation in public print. Concisely stated, it is as follows: What is usual is not news; and there is demand for what the word *news* itself imports; namely, novelty; and, although a fact may be new, it may nevertheless not be of sufficient public interest to circulate generally, so that, in substance, news is necessarily a matter of public interest characterized by novelty. Your committee has been advised that, in order that the *news* of this Association may be given wide circulation, a sufficient number of the summaries above referred to, and, so far as the Association desires, also of completed documents, including committee reports and public addresses, should be delivered to the press at least ten days before the meeting of the Association, so that the matter can be sent by mail to the press throughout the United States in advance of the meeting, with instructions not to release until ordered by wire. There are several reasons why this course should be pursued in order to secure the publication of this news. In the first place, it promotes accuracy. In the second, it is a fact that many desirable items are excluded in the haste of final moments, either because wires are crowded or compositors are pressed with other work, whereas, if the matter is received by a newspaper by mail in advance it can be properly considered by the editorial departments which make their own extracts and the composition can be made at leisure. This is much more likely to lead to the actual publication of the material than if sent by wire at the last minute through some press association. In order to assure this method of publication, it is deemed essential to have about 1000 extra copies of all matters to be given in this form to the press, printed at least ten days in advance of delivery or publication. The committee recommends compliance with these suggestions. It also invites additional suggestions in order that its operations may be perfected and its benefit to the Association as an agency for the furnishing of accurate news may be demonstrated.

After conference with the Secretary of the Association, a circular letter, designed to secure compliance with the views above

expressed, was formulated by the Chairman of this committee and forwarded early in July to the Chairman of each committee of the Association, and to those who are announced to deliver formal addresses. A copy of the circular letter is annexed to this report.

Through this committee, the press was advised of the issuance of the annual report for 1911 and interesting statistics collated therefrom were published quite extensively in the press of the country.

The Chairman of this committee was advised immediately thereafter by the Secretary of the Association that he had received communications and inquiries from interested persons who had gotten the first news through these channels, the communications having been written to him as the immediate result of the appearance of this item of news in the morning newspapers of the same date.

This committee has advised the press of the following additional matters of public interest, viz. :

The circular which the President of this Association sent out from Chicago in respect to the rescission by the Executive Committee of the American Bar Association of its action in respect to an election by the Executive Committee to membership in the Association.

An announcement in respect to the expected address of Senator Sutherland at the annual meeting.

An announcement in reference to the next annual meeting of the Association.

The public announcement of the Committee on Increase of Membership, including interesting data respecting the history and activities of the Association, and

The first preliminary notice to members relating to the coming annual meeting.

This report is prepared in advance of any further activity on the part of this committee. It earnestly hopes that its suggestions may be heeded as it has requested, and that they will result in a general observance thereof by the Chairmen of the committees and

speakers, to the end that the work of this committee may be systematically and efficiently conducted along the lines for which it was instituted.

CHARLES A. BOSTON, *Chairman,*
MARQUIS EATON,
FITZ-HENRY SMITH, JR.,
FRANCIS FISHER KANE,
Committee on Publicity.

July, 1912.

AMERICAN BAR ASSOCIATION.

COMMITTEE ON PUBLICITY.

DEAR SIR: It has been deemed of great importance that the Press shall receive accurate news of all matters to come before the annual meeting of the AMERICAN BAR ASSOCIATION, to be held at Milwaukee, Wisconsin, on August 27, 28 and 29, 1912. To that end the above Committee on Publicity has been instituted. This committee, after consultation with the proper representative of the Associated Press, advises that *in addition* to the regular reports and advance copies of all formal addresses, *each Committee Chairman, and each Speaker*, so far as possible, shall prepare a *short summary* of his report or paper, with a view to furnishing it in advance to the Associated Press to be released for publication at the proper date.

In order to carry out this program it is necessary that all reports and papers, and all such summaries shall be printed, and in the hands of the Associated Press in New York City not later than August 17, 1912, and in order to enable the Secretary to comply with this requirement it is necessary that all *reports, summaries* and *papers* to be so utilized shall be in the hands of the Secretary, George Whitelock, Continental Building, Baltimore, Md., not later than August 7, 1912, and it will be preferable if you can do so not later than August 1, 1912.

Your earnest co-operation to make this plan available is solicited. In respect to the proposed summaries you are reminded that the Press considers as news the unusual and extraordinary, and that it desires to have its attention, and the attention of its readers, particularly called to these features of any paper submitted to it. As these proposed *summaries* are for the use of the Press, you are requested to bear these points in mind.

Very truly yours,

CHARLES A. BOSTON,
Chairman.

Dated New York, July, 1912.

REPORT
OF THE
COMMITTEE ON LEGAL EDUCATION AND ADMISSION
TO THE BAR.

To the American Bar Association:

The Committee on Legal Education and Admission to the Bar begs leave to submit the following report:

The object of the American Bar Association as stated in its Constitution is

1. To advance the science of jurisprudence.
2. To promote the administration of justice.
3. To promote uniformity of legislation throughout the union.
4. To uphold the honor of the profession of the law.
5. To encourage cordial intercourse among the members of the American Bar.

Of all the problems with which the Association has to deal, that which is assigned to the consideration of this committee is certainly the most fundamental and most important. How can the American Bar "better advance the science of jurisprudence" than by using its influence to make the American law schools the best possible nurseries of legal learning? How can it better "promote the administration of justice" than by seeing to it that only thoroughly trained and competent lawyers are permitted to practise law? And how can it better "uphold the honor of the profession" than by insisting that all its members shall be honorable and learned men, and that none others shall be admitted to the Bar in any state of these United States? The other objects of the Association—"The securing uniformity of legislation," and "the encouragement of cordial intercourse among the members of the American Bar"—shrink in importance when compared with the supreme and most urgent duty which rests at all times upon this Association, to insist upon correct standards on the part of the law schools of the United

States, and on the part of the Boards of Law Examiners and those charged in any state with the responsibility of admitting to the Bar.

The work which this Association has already accomplished in these respects has been notable, and constitutes not the least creditable of what has been achieved.

The legal profession may congratulate itself on the fact that a larger proportion of college trained men enter it in the United States than enter the medical profession or the ministry. The American colleges in the early history of the country were founded to train men for the ministry. Harvard College originally established to educate ministers, now gives to that profession, according to statistics recently obtained by the United States Bureau of Education, barely two per cent of her graduates. Yale, begun under similar impulses, now contributes a meager three per cent. The statistics show that at Harvard the ministry yielded the leadership to law after the Revolutionary War, and that law remained the dominant profession of Harvard graduates until 1880, when business took the lead. At Yale, the ministry, it is shown, competed successfully with law until after the middle of the nineteenth century, when law took the ascendancy, and kept it until 1895, when it was displaced by business. At the University of Pennsylvania, where one-fourth of the graduates used to go into the ministry, now about one-fiftieth do so. This information is derived from a bulletin on "Professional Distribution of Ministry and College Graduates," just issued by the Bureau of Education. A final summary of 37 representative colleges shows that teaching is now the dominant profession of college graduates, with 25 per cent; business takes 20 per cent; law, which took one-third of all the graduates at the beginning of the nineteenth century, now claims but 15 per cent; medicine takes between six and seven per cent, and seems to be slightly on the decline; engineering is slowly going up, but still takes only three or four per cent; while the ministry, with its present five or six per cent of the total, has reached the lowest mark for that profession in the two and a half centuries of American college history.

While we may regret that the proportion of college graduates entering the legal profession has declined greatly since the beginning of the nineteenth century, yet it must be a source of satisfaction to us, as a profession, that the proportion of college-bred men entering the law is still so greatly in excess of those entering the rival professions. But the fact that the proportion of such men coming into the law is so much less at the beginning of the twentieth century than it was at the beginning of the nineteenth century should strengthen our determination to insist upon a more thorough training of the men who come to the Bar.

Unless the profession in America is willing to surrender the proud position it has held in this country, it must not allow other professions to set their standard of general culture and of professional attainments higher than we set ours. Indeed, it is evident that already the medical profession is keenly alive to the importance of a high standard of education for those who are entering that profession, and that they are even now requiring a longer period of professional study and a more extended preparatory training than the legal profession demands at the present time. In some of the states we are demanding a like preparatory training, but in no state are we requiring a like professional training.

In the report which this committee submitted to the Association in 1907, the committee recommended the adoption of the following resolutions:

Resolved, That the American Bar Association recommends the Bar Associations in those states and territories in which the requirement has not yet been established, to take action at an early day to secure the adoption of a rule making it a necessary condition of admission to the Bar that the candidate shall have an education equivalent at least to that required for graduation from a high school within the state or territory in which the application for admission is made.

Resolved, That in approving a high school education as a minimum requirement in general graduation, the American Bar Association is not to be understood as holding the opinion that such education is fully adequate to the needs of those who are

to practise law. On the contrary, this Association entertains the opinion that the interests of the profession and of the state would be promoted if all candidates for admission to the Bar should be required to have an education equivalent at least to two years of a college course. (Reports A. B. A., 1907, p. 589.)

The consideration of the resolutions was postponed one year when they were adopted, and without any opposition. (Reports A. B. A., 1908, p. 19.) Opposition was made to certain recommendations contained in another resolution concerning night schools, although that was but slight and ineffective. It is a notable fact that this Association four years ago expressed the opinion, without the dissent of a single member, that the interests of the profession and of the state would be promoted if all candidates for admission to the Bar were required to have an education equivalent at least to two years of a college course.

This Association, acting on the recommendation of this committee, some years ago adopted the following:

Resolved, That the American Bar Association approves a rule requiring candidates for admission to the Bar to study law for three years if graduates of law schools, and for four years if not. (See Proceedings, 1907, p. 589, and Proceedings, 1908, p. 19.)

The committee believes now, and it believed then, although it did not think the time had then come for saying so, that all candidates for admission to the Bar might well be required to be graduates of a recognized law school having a three years' course of study for the degree of Bachelor of Laws. This Association has again and again gone on record expressing its conviction that the best place in which to study law is in a law school. There can be no controversy at this late day in this body over the question whether one should study law in a law school rather than in an office. There is no necessity for explaining again the reasons which years ago led this Association to take the action it did on this subject. The committee desires, however, to direct the attention of the Association to some of the reasons which have led to the recommendation now submitted.

Before stating those reasons it may be well to remind the Association that in every state in the union, with two or three

possible exceptions, the law requires that before a person can be licensed to practice medicine he must have been graduated from a reputable medical school. In most of the states the law defines what is meant by a "reputable" medical school. In New York, before one can become a doctor, a dentist, a pharmacist, a veterinarian, or even a drug clerk, he must have graduated from the professional school. In the State of Wisconsin, in which this meeting is held, no person can practise medicine or dentistry unless he has taken a full course in a professional school of prescribed standing. This has been the rule throughout the country for many years. The doctors, dentists, and pharmacists are setting a higher standard for their professions than the lawyers are for theirs. It is fair to ask the question whether the lawyers should be satisfied to have it so, and whether we should be content to have the standard lower for law than for medicine? The committee is prepared to answer that question with a decided negative. In doing so we do not for a moment lose sight of the difference between the subjects taught in medical schools and in law schools, and the difference in the teaching, and the clinics and laboratories.

It may be objected that to require a law school education is oppressive, imposing heavy expense, and that its effect will be to deter many from entering the profession. Exactly the same argument would apply to the rule which has been established in the case of medical practitioners. Is there any reason why it should be cheap to become a lawyer and expensive to become a physician? And if a man is to be permitted to enter upon the practice of the law before he has been properly trained for the discharge of his duties, does he not become a cheap lawyer, hindering the administration of justice by his blunders? If the effect of the requirement proposed shall be to deter some from entering the profession will not the country be the better off? A Justice of the Supreme Court said some years ago, in speaking before the Bar Association, that it would be a blessing to the profession and to the community if a deluge could engulf one-half of those who hold a license to practise law. His opinion was based on a wide experience, and was based on exceptional

opportunities. Before his appointment to the Supreme Court of the United States he had been for many years a state judge, and for a number of years a circuit judge of the United States. Again it may be said that the whole matter is not important, as the young lawyer who comes to the Bar not properly qualified will soon find his own level. That theory would lead to the abolition of all our rules and to the adoption of the Indiana principle that any man who is a good citizen is entitled to be admitted to practice law. Outside of Indiana such a theory has no support, and does not need to be noticed in this Association, which could not be induced by any specious reasoning to give it the slightest countenance. Some one may say that "the poor young man" should not be forgotten, and that such a rule would have excluded Abraham Lincoln from the profession. But it would not have excluded Abraham Lincoln from the profession, or any other poor young man whose gifts fitted him to become a great lawyer. Such men surmount the obstacles which are in their way, and they will meet whatever necessary conditions the courts and the examining boards impose. Such a rule may shut out, and it ought to shut out the poor young man who is without gifts and was never intended by nature for the profession. The rule would work no greater hardship on the poor young man who wants to become a lawyer, than it now works upon the poor young man who wants to be a physician, and not so much, for the course in the medical school is four years and in the law school it is three. But, however, all that may be, the fact is that consideration for the poor young man is not the sole consideration by which our action should be controlled. It is a consideration which has had altogether too much influence in the past with some courts and some examining boards in fixing standards of admission to the Bar. The administration of justice is to be taken into the account. The rights and the welfare of the community cannot be ignored. The door of admission should not be left standing wide open so that the man on the street can easily walk in on the plea that not to leave it open wide is to make it too expensive for the poor young man to find his way in. It is not alone that ill-trained lawyers

lower the prestige of the profession, and that the lawyers of the country should have too much pride to allow it to be said that it is easier to become a member of the Bar than to be licensed to practice medicine. The better and all sufficient reason is that ill-trained lawyers lose their clients' cases by their blunders, sacrifice their clients' rights, waste the time of courts, create unnecessary litigation, and impose upon the tax-payers needless burdens. Ill-trained lawyers cost the community too much in time and money. The admission to the Bar of an unprepared lawyer is a great wrong to the state and any reason by which it is sought to be justified is nothing more than specious, and does not seem to us creditable, either to the head or the heart of those who act upon it. Heretofore it has not sufficed to deter this Association from taking action to establish higher standards governing admissions to the Bar. As the committee does not propose that action shall be taken at this meeting, it submits its recommendation now, reserving the right to call the matter up for action at a subsequent meeting. At that time it may lay before the Association additional reasons for its recommendation.

The time may come, and it may come speedily, when this Association may be disposed to go farther than your committee is now advising. It may soon be deemed expedient by the Bar Association to require in addition to a law school training, that no applicant shall be admitted to the Bar unless he has had in addition to his law school training a practical experience as a law clerk in the office of a practising attorney. In the opinion of your committee a great deal may very properly be urged in favor of such a requirement. The committee has been informed that the New York State Board of Law Examiners has already recommended the Court of Appeals in New York to so change the requirements in that state as to make it necessary that every person coming to the Bar of New York shall be a graduate of a three years' law school, and shall in addition have spent one year in a law office. And the committee has also been informed that each of the nine law schools in that state favors such a requirement, as does also the Lawyers' Association of New York

County. It has been suggested that to require the law student after graduation to spend an additional year in an office is an unnecessary lengthening of his period of preparation, as he might be required or permitted to spend his summer vacations in an office if he so preferred. To this it may be objected that there is very little going on in the law offices in the summer time, the courts being closed, and the lawyers away. Moreover, it may be urged that he may properly be required to complete his law school studies before entering the office. Until he has completed his law school work he cannot make himself very useful in the office, and until then he cannot himself derive the best results from his office experience.

The committee had intended to go at some length, in this report, into the rules which have been established governing admission to the Bar in the various states, and we also proposed to consider the work of the State Boards of Law Examiners. We have concluded, however, to postpone until next year a report upon that phase of the subject, believing that at that time the data in our hands will be more complete. Neither shall we undertake at this time to submit a detailed and comprehensive report concerning the work of the law schools. The two matters may well be considered together in next year's report.

The committee calls attention to certain advances which mark the progress which has been made in recent years in legal education, without attempting anything like a complete enumeration. Some of them are as follows:

1. The recognition of the superiority of the law school over the office preparation for the Bar.

In the earlier years there was a strongly rooted conviction throughout the profession in this country that the only practical method of qualifying for the Bar was by the reading of law in the office of a practising lawyer. At the present time few intelligent members of the profession can be found in the United States who would advise a young man to read law in an office if it was at all possible for him to enter a first-class law school.

Under modern conditions we all know that systematic training in legal principles cannot be obtained in a law office, and the law school has become a necessity.

2. The recognition of a definite period of legal study upon the completion of which, and not before, the applicant can apply for admission to the Bar.

In former years it was the general practice to allow a candidate to apply for admission whenever he could get the court to appoint a committee before which he could appear. So far as this practice rested upon any theory, it was that the time actually devoted to preparation was not material. A bright man might be as well prepared at the end of six months as a dull man could be at the end of one, two, or more years. So that the question should not be, how long had the candidate studied law, but how much law did he actually know.

3. The lengthening of the law school course of study to three years.

Only a few years ago the course of study in the schools for the degree of Bachelor of Laws covered a period, at the best, of only two years. Now the majority of the schools acting in accordance with the advice of this Association have established a course extending over a period of three years. It can be safely said that in a very short time, if that time has not already arrived, no school which desires to be regarded as at all respectable will consent to remain on a two years' basis, or if it continues for any reason on that basis will think of conferring the LL. B. degree on the completion of its two years' course of study.

4. The changed method of law instruction which has substituted in so many of the law schools of the country the study of law through cases, either as an exclusive system, or in combination with the use of text-books, in lieu of the old system of lectures, or of lectures and text-books.

There are few law schools in the United States today in which some use is not made of the study of cases, and in many of the best law schools the case system has become the exclusive method of study. This subject is briefly alluded to in another portion of this report.

5. The development of a class of law teachers who are withdrawn from law practice, and whose vocation it is to teach law.

In former years it was the usual thing for men engaged in practice, and for judges on the Bench, to devote some of their spare time to giving instruction in the law schools. In those times law teaching was merely an avocation. It was assumed that a man who had attained eminence in practice or distinction on the Bench was exactly the kind of lawyer who should be made a law instructor. But the profession has come to recognize the fact that the successful law teacher is born, not made. The ability to teach is a gift. The fact that a man is distinguished at the Bar does not afford a guaranty that he will be a success on the Bench. No more does it that he will be a success in the professor's chair. And in like manner, eminence on the Bench is no guaranty that the man will be a successful law instructor. It all depends upon whether he possesses the gift.

Then again, the method of teaching law has changed. The inductive method of law instruction has made it necessary for the teaching to be largely in the hands of those whose sole business it is to devote themselves to the work of instruction. In days when instruction consisted in simply reading lectures or asking questions upon an assigned text-book, it was possible for lawyers and judges to find sufficient time to perform the task of law instruction. But in these days a law teacher working under the inductive method, and carrying eight hours of work a week, finds himself hard pressed to discover all the time he needs to prepare his work, even though he is devoting himself exclusively to the duties of a law instructor.

Hence, there has of necessity grown up a class of law instructors who are withdrawn from practice and who devote themselves exclusively to the work of the schools. The most successful schools are those in which the teaching is done in the main by this class of instructors. It is desirable that law teachers, while withdrawn from practice, should have had actual experience at the Bar. And it is not intended to intimate that no man, while in active practice, or while still a judge on the

Bench, should be connected with a law faculty. It may be very desirable that a few of such men should be in every law faculty, provided they have the teacher's gift and carry only a limited amount of instruction. What we desire to emphasize is the fact that the changed method of law instruction now makes it desirable, and indeed necessary, that the greater part of the work of instruction should be in the hands of those who devote themselves exclusively to it, and that this has become the practice of the best schools.

The law schools of the country are national and not local. This is true even of the law schools maintained by the states in connection with the state universities. This national character of the schools it is most desirable they should continue to maintain. The schools should desire to draw their students from all parts of the country, and their purpose should be to prepare them, so far as may be practicable, for practice in any part of the United States. A school which should announce that it would not teach the general law of the land, but simply the local law of the particular jurisdiction, would be a school which should be avoided. A lawyer who is ignorant of the general law cannot know the local law of his jurisdiction. One who has had the training of a good law school in the principles of the common law, can easily acquaint himself with the peculiarities of the local law of his jurisdiction, and is prepared to take up the practice of his profession in any state whose jurisprudence is based on the common law.

In 1907, the committee had occasion to consider the backwardness of the Southern States in matters relating to legal education and admission to the Bar. We explained at that time the reasons for the existing conditions. The economic conditions which prevailed in that section of the country, both before and since the Civil War, seriously interfered with the establishment of proper standards by the law schools in that part of the United States. At the time that report was submitted there were but two law schools in the country of which the committee had knowledge which were sufficiently regardless of public opinion and of duty to the public to require only one

year's study of the law as a condition of graduation. One of those schools has since lengthened its course to two years. The other school, Cumberland University Law School, at Lebanon, Tennessee, still continues on the one-year basis. The committee believes in plain speaking in this matter, and that it ought to be stated with emphasis that the committee knows of nothing in the history of legal education in the United States which is much more meretricious or much more censurable than for a law school at this late day to confer a law degree upon the completion of a single year's study of the law. Any school which deliberately continues such a course has no respect for public opinion, and certainly deserves the severest censure.

The only law schools in the South in 1907, which had a three years' undergraduate course, were those in Texas and North Carolina. The law school of the University of Texas took the foremost place among the law schools of the South, establishing a three years' course and advancing its standards for admission and graduation, attracting at the same time the largest attendance of any southern law school. It deserves great credit for its honorable record, and the fine example it has set to the other schools in that section of the country. The law schools of North Carolina, in like manner, deserve high commendation for a record almost equally distinguished. But since our former report was submitted, other leading law schools of the South have established the three years' course. The schools which have taken this action are those connected with the University of Virginia, Vanderbilt University at Nashville, and the University of Tennessee at Knoxville, and Tulane University at New Orleans.

In the Report of 1907 this committee said:

The committee is, however, unable to perceive in existing conditions in the Southern States any sound justification for not insisting on proper entrance requirements. Scattered all through the South are reputable colleges and universities which do not admit to their academic departments as candidates for a degree in Arts students who are without suitable preliminary education. And if this can be insisted on for the Arts degree, we are at a loss to understand why it cannot be insisted on for the law degree. (Proc. A. B. A., 1907, p. 583.)

It would be a wholly unjust aspersion upon the South and one which that section would indignantly denounce, and properly so, if one should assert that the young men of the South cannot obtain today in their section of the country a suitable preliminary education. It is true that the common school system has not been as extensively developed in the South as in the North, and there may be parts of the South which are still without high schools. But the marvelous progress which the South has made in recent years in matters educational has challenged the attention and admiration of the whole country. Their schools and academies have made it possible for their young men to prepare themselves for the colleges and for the professional schools. As a result the law schools have become discontented with the low standards which at one time prevailed and have established higher standards in conformity with the recommendations of this Association.

In 1907 there were thirteen Southern law schools which imposed practically no admission requirements, and outside of Texas and North Carolina, and the possible exception of the University of Virginia, the other Southern schools which had established some admission requirements failed to conform to the recommendations made by this Association. At the present time the law school of the University of Texas, and that of Trinity College in North Carolina, require one year of a college course as a condition of admission. Most of the other schools in the South have prescribed a high school education. Those which have done so are: the University of Arkansas, the University of Alabama, the University of Florida, the University of Georgia, Kentucky University, University of Mississippi, Stetson University, Tulane University, University of Tennessee, University of Virginia, Vanderbilt University, Washington and Lee University, Mercer University, and the Atlanta Law School.

This is a great and creditable advance over the conditions which prevailed only a few years ago, and it is noted with great satisfaction. There are not many schools left which still adhere to the old-time notion that anybody should be permitted to study

law, and that the man in the street ought to be permitted to enter a law school without challenge. One is not surprised that the law school of Cumberland University, with its course of one year still has no admission requirements. But the committee is sorry to find that such is the fact also at the University of Louisville, and that the Richmond College of Law, in Virginia, should be content to say that a fair general education is sufficient for admission.

There are a few schools in the South in which the professors devote their entire time to law instruction. The law school of the University of Texas has six professors, and they give their whole time to the work of the school. The University of Virginia has five, and they in like manner devote all their time to law instruction. The law school connected with Wake Forest College, in North Carolina, and that of the University of Mississippi, and of the University of Florida, have a smaller number of instructors, and they give their whole time to their law teaching. But in most of the Southern schools none of the instructors are giving themselves exclusively to law teaching. The Chattanooga College of Law has fifteen instructors, and not one of the number devotes his entire time to the school. The same is true of the University of Arkansas, which has twelve instructors. Between these two extremes—the schools where they give all of their time, and the schools where none gives his whole time—are a number of schools which have some teachers giving their entire time to instruction. To this class must be assigned the following schools: Washington and Lee University, where three out of four so teach; and Vanderbilt University, with three out of seven; the University of Tennessee, with two out of seven; the University of Georgia, with two out of four; Tulane University, with three out of nine; Cumberland University, with two out of four; Kentucky University, with two out of seven; the University of Alabama, with one out of four, and Trinity College, in North Carolina, with one out of three.

There are few night law schools established in Southern states. The only schools of this class are the Chattanooga College of

Law, at Chattanooga, Tennessee, and the Mercer University Law School, at Macon, Georgia.

There continues to be an unfortunate divergence of practice in the matter of granting the J. D. degree. Harvard, Yale, Northwestern, Boston, the Catholic University of America, the Chicago Law School, and the American Central Law School at Indianapolis, confer this degree as a graduate degree only. Leland Stanford University, Chicago University, the Illinois College of Law, New York University, and the State Universities of California, Illinois, Michigan, North Dakota, and Ohio, confer it as an undergraduate degree. An understanding ought to be reached respecting this matter. That this degree should be granted by some schools as a graduate degree only, and by others as an undergraduate degree is not only confusing but wrong and clearly ought not to continue. It is gratifying to know that all the schools granting the degree, with but one exception, confer it only upon those who have previously obtained a degree in arts or science. It is to be hoped that the school now granting the degree to those who have had but two years of a college course may see fit in the interest of uniformity of practice to advance its requirements to conform with those which every other school granting the degree has seen fit to establish.

The committee asked the deans of schools not conferring the J. D. degree whether they approved or disapproved of the granting of that degree as an undergraduate degree. To this inquiry two answered, "Yes, if confined to students who have obtained a Bachelor's degree in Arts or Science before entrance." One other answered, "Yes, if upon sufficient requirements." And one, the secretary of the faculty, replied simply, "Yes." Sixty-one answered that they disapproved of the practice. The remainder either ignored the question, or stated that they had not considered the matter, and reached a mature opinion. It appears that so far as an opinion exists respecting the question, it is decidedly adverse to the granting of the J. D. degree as an undergraduate degree.

The Section on Legal Education, at the meeting in Boston a year ago, adopted the following resolution:

Resolved, That the Section advise the American Bar Association that in its opinion the right to grant the LL. B. degree ought, in the United States, as in England and Scotland, to be restricted to schools in law having a three years' course of study for that degree; and do further advise that schools having only a two years' course for the degree should grant, as in Scotland, the degree of LL. B. It further advises that schools having a course of only one year should not have the right to confer any law degree. (Proc. A. B. A., 1911, pp. 638, 640.)

This resolution was adopted without any opposition, and it accords fully with the views which this committee expressed in Proc. A. B. A., 1907, p. 576.

The committee has not heretofore asked the Association to act upon the recommendation which we made upon this subject. We think, however, that it may become necessary to do so in view of the fact that so many of the law schools still continue on the two-years basis, and at the end of that time confer the LL. B. degree. We are glad that the Section has joined in making this recommendation to the Association.

At the same meeting at which the Section on Legal Education took the action above referred to, it also adopted another resolution of importance which reads as follows:

Resolved, That the Section advises the American Bar Association that in its opinion it is desirable that the right to confer degrees should be regulated by a uniform law, or by united action on the part of the law schools. (Proc. A. B. A., 1911, pp. 639 and 640.)

This resolution was adopted also without any opposition. It is also in accord with the views which this committee has expressed in other reports that uniformity on this subject is desirable. The committee, however, has not been sanguine that uniformity can be brought about except by the adoption of a uniform law, and it presented a proposed draft of such a law. (Proc. A. B. A., 1907, p. 590.) The committee has not pressed this subject upon the Association for action, although it made recommendations concerning the proposed law. The committee has believed that possibly something might be gained by delay, and does not desire at this time to urge immediate action.

In a number of the law schools scholarships have been established to aid deserving students. Chicago University Law School reports fifty such scholarships, with an average value of \$75 each. Harvard University Law School reports thirty-five, with an average value of about \$170. The Law School of Columbia University has twenty-nine, with an average value of \$150 each. Yale University Law School has nine, of \$150 each. The University of Pennsylvania has three, with an average value of \$160 for three years. Cincinnati University Law School has ten, of \$100 each. Northwestern University Law School has sixteen, having an average value of \$150 each. The Kansas City School of Law has six, with an average value of \$250 each. The Pittsburgh Law School has fifteen, with an average value of \$110. The Department of Jurisprudence in the University of California has two, of \$225 each. A few scholarships exist also in each of the following schools: The law schools of the State Universities of Alabama, Illinois, Missouri, Oklahoma, South Dakota and Tennessee, as well as in the Buffalo Law School, Chicago Law School, Chicago-Kent College of Law, Cornell University Law School, Creighton College of Law, Fordham University Law School, Hastings College of Law, Illinois College of Law, Suffolk School of Law, St. John University, George Washington University Law School, Washington College of Law, Vanderbilt University Law School, The National University Law School, and the American Central University Law School. Boston University Law School states, "About \$3000.00 is given in scholarships and student positions." The Leland Stanford, Jr., University Law School states that it offers "Seven assistantships, which are practically scholarships, with an average value of \$100. The Law School of Washington University in St. Louis gives appointment to twelve students as assistants in the library, requiring two hours of daily attendance, and in return grants free tuition. This is done also at the Yale Law School, and was not of course included in the statement as to the scholarships open to the Yale Law School men, as such assistance cannot be regarded as amounting to a scholarship. The School of Law of Temple University says: "Temple University has

twenty-eight permanent scholarships, besides twenty-five state scholarships, which when granted in the Law School equal the tuition."

The reports submitted to the committee by the law schools show that in almost all the schools there are moot courts. Indeed, there are only seven schools which are without them. In the schools in which they exist, it is almost always the case that the work of the students in these courts is compulsory, although there are fourteen schools in which such work is not compulsory.

The reports also show that in most of the schools the subject of legal ethics is taught, although we regret to find that there are twenty-seven schools in which the subject is not taught. In the schools in which it is taught the course varies from two or three lectures in a number of the schools, to a much more extended course.

The "case system" of instruction is employed either as the exclusive or as the chief method of instruction in thirty-seven of the schools. There are only six schools which report that they make no use of the case method. The majority of the schools continue to use cases and text-books in combination.

The committee advises the American Bar Association that it should adopt at a subsequent meeting the following resolutions:

Resolved, That the American Bar Association approves the adoption in each state of a rule which shall require every candidate for admission to the Bar to be a graduate of a law school of recognized standing.

Resolved, That the American Bar Association does not regard a law school as one "of recognized standing," and does not believe it should be so recognized unless it requires candidates for its first degree to complete a course of study covering a period of at least three years.

Resolved, That the American Bar Association approves the adoption of a rule in each state requiring every candidate for admission to the Bar to state in an affidavit, to be filed with his application, that he has read the canons of professional ethics adopted in the state in which he makes his application, or in lieu thereof those adopted by the American Bar Association, and

has faithfully endeavored to make himself acquainted with the same, and that he will endeavor to conform his professional conduct thereto.

Resolved, That the American Bar Association approves the adoption of a rule in each state requiring every candidate applying for examination for admission to the Bar to be examined on the canons of professional ethics adopted in the state in which he makes his application, if any such have been adopted, and in the event that no such canons have been adopted, then upon the canons adopted by the American Bar Association.

Resolved, That the American Bar Association asks that the faculties of all the law schools in the United States shall give instruction in the subject of Legal Ethics.

[Mr. Pound dissents from so much of this report as recommends that legal ethics should be taught in the law schools; his dissent is based on the fact that in his opinion the time is needed for other subjects.]

HENRY WADE ROGERS, *Chairman*.

LAWRENCE MAXWELL,

J. W. GREEN,

ROSCOE POUND,

WILLIAM DRAPER LEWIS.

OBITUARIES

ARKANSAS

JOHN FLETCHER.

John Fletcher was born on a farm in Pulaski County, Arkansas, on March 10, 1849. He was educated at St. John's College in Little Rock, and at the Washington and Lee University at Lexington, Va. He returned to Little Rock in June, 1871, and entered upon the practice of the law. On March 30, 1875, he married Miss Mary E. Moose, of Lewisburg, Ark., who, with one son, survives him. In 1881 he formed a partnership with Hon. W. C. Ratcliffe, which continued for thirty years and until dissolved by Mr. Fletcher's death September 18, 1911.

When Mr. Fletcher began the practice of law, few predicted for him the distinguished career that was destined to be his. Rather small of stature, frail in health, with no native oratorical gifts, he started out with many disadvantages; but his tireless industry, his high moral standards, his unflinching devotion to duty overcame all obstacles, and for many years, he was one of the leaders of the Bar of his state. He was a great student and deeply learned in the law. He was frequently called upon to serve as a special judge. He was an admirable advocate, whether before courts or juries. His careful preparation of his cases, the clearness of his reasoning, the earnestness of his presentation, made doubly effective by the high character of the man, were very apt to carry conviction. His own preference, however, was for work in the appellate and chancery courts; and while not a man of great eloquence, he was a powerful and effective debater.

For many years before his death, Mr. Fletcher was a member of the General Council of the American Bar Association and was regular in attendance at its meetings.

His integrity was of the highest standard ; his private life spotless ; his manners kind and gentle ; his heart free from malice or guile. He was a devoted husband and father. One of the leaders in the Christian Church at Little Rock, his daily life reflected honor upon the religion which he professed.

NATHAN WILLIAM NORTON.

Nathan William Norton was born October 15, 1850, near Paris, Ky. His father was a farmer. In his early boyhood, his parents moved to Oxford, Ohio, where he attended the public schools. After the Civil War, his parents moved to Marshall, in Clark County, Illinois, where he resided until 1869, when he removed to Arkansas. The next ten years he spent chiefly as a trapper, in the forests and along the rivers of the eastern portion of the state, especially the Tyronza and St. Francis, and also in the forests of the Sunflower River in Mississippi. His trapping pursuits occupied the winter months of each year, and at other periods he taught school or worked on farms. In 1878 he became deputy clerk of Cross County, and in 1879 he became bookkeeper for a mercantile firm at Wittsberg.

While deputy clerk he began the study of law, and was admitted to the Bar in 1881. He was a member of the Lower House of the General Assembly of his state in the session of 1883. He moved to Forrest City in 1885, and continued to reside there, devoting himself entirely to the practice of law, and rapidly becoming one of the foremost lawyers of the state. On several occasions he acted as special judge of the Supreme Court.

In 1909 he was elected President of the Bar Association of Arkansas. His presidential address, exposing the dangers of the Initiative and Referendum Amendment, then before the people, has never been surpassed in clearness and cogency of reasoning and felicity of expression in all the literature of the subject.

Mr. Norton was a singularly lovable character. His death brought a pang of sorrow and a sense of personal loss to every member of the Bar privileged to know him. As a lawyer he was remarkably clear and brief, both in speaking and writing. He went straight to the heart of the case and planted himself there,

wasting no time upon the non-essentials. As might be expected he was successful, alike before courts and juries, and his practice was very extensive.

On November 13, 1879 he married Miss Carrie C. Roleson, who, with several children, survives him.

He passed away on the 6th of March, 1912.

OSCAR L. MILES.

Oscar L. Miles was born October 16, 1854, in Grainger County, Tennessee, and died August 17, 1910, at Booneville, Arkansas. His parents were George W. and Rebecca Austin Miles, his father being a minister of the Methodist Church.

Oscar L. Miles moved early in life with his parents to Virginia, and lived there until 1876, when he went to Arkansas, following his graduation with high honors, in June, 1876, from Emory and Henry College. He located at Booneville, Arkansas, and engaged in teaching school for two years, during which time he studied law and was admitted to the Bar.

Following his admission to the Bar, his progress was rapid and brilliant. He was for four years prosecuting attorney of the district in which he resided, and here he made a notable reputation for vigorous and successful prosecution of violators of the law. He removed in 1893 to Van Buren, Arkansas, and the following year became connected with the legal department of the St. Louis, Iron Mountain & Southern Railway Company, and a few years later was made general attorney for that railroad in western Arkansas and the Indian Territory. He served until January 1, 1908, when he resigned and concentrated thereafter all attention upon the general practice of law.

He took, from time to time, an active interest in public affairs. He was frequently a delegate to state Democratic conventions, and a delegate to the last National Democratic Convention held in St. Louis. He was pronounced, in a resolution adopted by his Bar Association, "a brilliant member of the Bar, a valued citizen of the community, and a devoted husband and father," and a distinguished associate declared that "he had so lived that his worst

enemy could not take the back trail and find a single black spot upon it," while former Chief Justice Joseph M. Hill declared that "Oscar L. Miles was an independent character. He threw his whole nature into whatever enterprise he engaged; he never straddled, he never was on the fence. He had that rare ability as an advocate of being able to play upon the sympathy of the jury and at the same time appeal to reason. His life was absolutely clean; no stain rests on his memory."

ILLINOIS.

MILO LESTER COFFEEN.

Milo Lester Coffeen was born at Antwerp, New York, December 20, 1850. He was educated at the public schools in Illinois, and graduated at the Union College of Law in Chicago in 1871. From 1871 to 1887—with the exception of 1879-80, when he was in partnership with Emery A. Storrs—he was chief clerk of the Superior Court of Cook County. In 1889 he became a member of the firm of Tenney, Bashford & Tenney, and continued a member of that firm through the changes occurring in its membership during the succeeding twenty-four years, until his death in 1911.

He had in rare degree the happy faculty of making friends. His jovial disposition brought good nature into all his transactions. He had a deep sense of the rights of others and felt the obligation of according those rights full measure. His kindly nature found abundant opportunity for helpful expression during his long service in the office of the clerk of the Superior Court. One of the pleasantest tributes to his memory has been the many expressions by lawyers, now old in service and prominent at the Bar, of their grateful remembrance of his helpful suggestions at a time when to them every molehill looked like a mountain.

As a lawyer he was singularly versatile. Though he rarely took part in the trial of cases he had an intuitive perception of the strong points in a case, and of the policy to be pursued in handling it. In consultation he was patient and careful to ascertain the facts and the law; in action he displayed an effective blending

of audacity and caution. His industry was tireless, and both his clients and his adversaries were alike impressed with the zeal with which he concentrated all his attention and effort upon the matter in hand.

ARTHUR FRANCIS EVANS.

Arthur Francis Evans was born at La Salle, Illinois, August 24, 1869. He was the son of Hon. Daniel Evans and Emma Ryder Evans. He graduated from the Ottawa High School and afterwards attended the Beloit University. He was admitted to the Illinois Bar in 1892, and engaged in the general practice of his profession at Chicago until 1896, when he became general attorney for Swift & Company, from which time he earned and enjoyed a nation-wide reputation and popularity. He did active and effective work in connection with Congressional inquiries and in the litigation growing out of the changing social and economic standards of the day.

Mr. Evans had a remarkable gift for making and retaining friendships and his intimate acquaintances included many men famous for their ability and success in professional, literary, commercial and political life.

With a keen, analytical mind, limitless energy, engaging manner, and a fund of information upon a great variety of subjects, Mr. Evans was held in the highest esteem by his associates.

On January 23, 1907, Mr. Evans was married to Miss Elizabeth Elliston Buford, of Nashville, Tennessee. His sudden death, at the age of forty-two, occurred April 8, 1911.

EDWARD BEAUCHAMP PEIRCE.

Edward Beauchamp Peirce was born at Kosciusko, Mississippi, August 14, 1868, the son of James Harvey and Artilla (Beauchamp) Peirce. After being graduated from the University of Mississippi in 1890, he moved to Van Buren, a small town on the western edge of Arkansas, and began the practice of law, under the guidance and tutelage of his uncle, Edward D. Peirce.

He was married in 1895 to Miss Stella McCorkle, daughter of Mr. and Mrs. J. S. McCorkle, of Fort Smith. Two children were born, James and Mary Buford.

In June, 1900, Mr. Peirce was employed as assistant general solicitor of the Choctaw, Oklahoma & Gulf Railroad Company, with offices at Little Rock, and was connected with that company and its successors until his death.

In 1904, when the Choctaw road was absorbed by the Chicago, Rock Island & Pacific Railway Company, Mr. Peirce was appointed attorney for Arkansas of that company. On November 1, 1906, he was made commerce counsel of the Rock Island-Frisco lines, with headquarters at Chicago, and was placed in charge of the interstate commerce litigation of the Rock Island-Frisco System and the Chicago & Alton Railroad Company. With few precedents to guide him, he found himself confronted with questions of great magnitude. He handled these problems well—so well that upon the separation of the Rock Island and Frisco systems in December, 1909, he was made general solicitor of the Rock Island lines, in charge of the law department. It was while carrying out large plans for the up-building of the system and of the communities which it serves that he met his death in a railway accident at Kinmundy, Illinois, January 22, 1912.

To rise in a few years from the obscurity of a village to the head of the law department of a great railway system is, even in these days, no small achievement; but to meet the problems which Mr. Peirce met in 1907 and the following years; to deal fairly, impartially, and in a spirit of optimism with a multitude of conflicting interests, and to pass through a turbulent period of railway regulation with the respect, admiration and friendship of his most bitter opponents, is a task worthy of any man. The thing that impresses one most about his character and the work he did in these last few years of his life was his broad view of the question of railway regulation as a whole. The pecuniary interests of his clients never swayed his judgment as to the law.

JOHN S. STEVENS.

John S. Stevens, of Peoria, was born in Bath, N. H., September 16, 1838, and died March 4, 1912. His father, Joshua Stevens, and his mother, Abigail Walker Stevens, were natives of that state. The former was of English and the latter of Scotch descent. His family removed to Hardwick, Vermont, in 1849.

The son John, while getting an academic education at the Caledonia Academy, helped in farm work. He taught school also at intervals until he entered Dartmouth College in 1858. Upon leaving college he came to Peoria and taught in the high school there. Afterwards he was the principal of one of the schools in Meso and acted as librarian of the Mercantile Library for several years. He studied medicine under Dr. I. W. Johnson, but preferring law entered the office of the late Alexander McCoy, then one of the principal lawyers in Peoria, as a student and assistant, and was admitted to the Bar August 7, 1865. Mr. Stevens was in partnership with the late David McCulloch until 1876, when he became postmaster at Peoria. On retiring from that office, the firm of Stevens & Horton was organized. Afterwards the firm was Stevens, Horton & Abbott, and more recently it was Stevens, Miller & Elliot.

Mr. Stevens was regarded as a scholarly, upright and able lawyer. He was gentle, courteous and kind in his intercourse, and was held in high esteem. He was, in 1901, elected President of the Illinois State Bar Association, and served one year in that office; and he was also an Ex-President of the Peoria Bar Association. He was married in 1868 to Miss Sarah M. Bartlett.

IOWA.

CARROLL WRIGHT.

Carroll Wright was born at Keosauqua, Iowa, October 21, 1854; he died at Colorado Springs October 28, 1911.

He was the third son of George G. Wright, one of Iowa's most distinguished lawyers, formerly a Justice of the Supreme Court of the state, and United States senator from Iowa. His mother,

Hannah Mary Dibble, was a woman of force and rectitude of character. He was married June 18, 1879, to Miss Nellie Elliott, daughter of John A. Elliott, formerly state auditor, who survives him with one son.

From the high school at Des Moines, Mr. Wright entered the State University at Iowa City, and graduated with the class of 1875. Until the fall of 1876, he was reporter for the Iowa State Register, leaving this work to study law in the law school of Simpson Centenary College from which he received his professional degree in 1878. He was engaged in the general practice of his profession at Des Moines from the time of his graduation until August 1, 1896, when he accepted the position of general attorney of the Rock Island road for Iowa and South Dakota. This position he held during the remainder of his life. For many years he was one of the regents of the State University and director in various financial institutions of Des Moines.

KENTUCKY.

WILLIS OVERTON HARRIS.

Willis Overton Harris was born in February, 1847, in Powhatan County, Virginia. Of early English descent, his parents, Hilary and Phoebe Ann Harris were both Virginians. His boyhood was spent at Mill Quarter, the plantation of his father, in Powhatan County, and his early education was obtained from private tutors. He matriculated at the Virginia Military Institute at Lexington, Va., just before the war. The major portion of that stirring period from 1861 to 1865 he spent as a student at the Institute, but early in 1864 the cadets were mustered into active service by the order of General Lee and were assigned to the command of General John C. Breckenridge. The last few months of the war were spent by the cadets under the command of that gallant soldier and the heroic part borne by those young boys of sixteen or seventeen years in the battle of Newmarket is familiar history.

Immediately after the war young Harris entered the University of Virginia, from which institution he was graduated a

Bachelor of Laws. The year following was spent in active charge of his father's plantation in Powhatan County. He then went to Kentucky where, for a few months, he practised law in Russellville. He moved to Louisville to enter the office of Joshua F. & Thos. W. Bullitt, the leading practitioners of that day in Kentucky. The fine mind and indefatigable energy of the young Virginian soon won him recognition and he was admitted to partnership under the firm name of Bullitt, Bullitt & Harris. This connection was retained until Mr. Harris was appointed to the Bench of the Law and Equity Court in Louisville. Upon his retirement from the Bench a year later he returned to the active practice of his profession, which he continued until his death.

During this period of his life Judge Harris served as major in the old Louisville Legion, which performed a valued service during the labor disturbances, which were rife at that time. In 1887 he was elected to the faculty of the law department of the University of Louisville, which position he retained for twenty-four years, twenty of which he served as dean of his department. His duties as teacher in no way interfered with the practice of his profession, which was maintained with vigor until the end of his life. Standing always for honesty and real service in public officials, the citizens of Louisville remember him best, perhaps, for his influence in the passage of the Registration Act, which went far to purify Kentucky elections.

After a brief illness Judge Harris died on July 6, 1911, in the full vigor of his strong intellect.

LOUISIANA.

ALBERT G. BRICE.

Albert G. Brice was born in the State of Kentucky, being descended from sturdy Presbyterian ancestors. He spent 60 years of his life in the city of New Orleans, and died there at the age of 82 years.

He studied law in the University of Louisiana, where he obtained his degree. Before the outbreak of the Civil War, he

served as a city judge. He was a member of the Louisiana state legislature at its session just prior to the war, and was being widely spoken of as a candidate for Congress when hostilities commenced.

He enlisted in the Confederate army and served throughout the entire conflict. At the close of the war, he resumed the practice of law and held several positions in the federal and civil courts.

Judge Brice was a scientist and a scholar of note, and his library contained many rare and valuable books.

He married Miss Mary B. Prague of New Orleans, who survives him.

WILLIAM W. LEAKE.

William W. Leake was born and reared in St. Francisville, Parish of West Feliciana, Louisiana, where he died on January 20, 1912, at the age of 79 years.

He received his early education in the parish schools. He studied law in the office of Brewer & Collins, and was admitted to the Bar in 1857. In the year following, he was admitted to the firm of Brewer & Collins, which later became Collins & Leake. He served in the Confederate army as a member of the First Regiment of the Louisiana Cavalry from September 1861 to May, 1865, rising to the rank of captain in the service of his country. At the close of the war, he returned to his law practice in St. Francisville.

For a short time he acted as district attorney by appointment under Governor Nicholls, and did yeoman service as a lawyer and citizen in the dark days of reconstruction. In 1879 he served in the Constitutional Convention where his profound knowledge of law made him a useful member of that body. From 1880 to 1884 he was state Senator. From 1896 to 1904 he was a judge of the Court of Appeals. Upon the expiration of his judicial term, he retired from law, and became President of the Peoples Bank of St. Francisville, which position he occupied until his death.

EDWARD LLOYD POSEY.

Edward Lloyd Posey was born in Opelousas, Louisiana February 22, 1851. He was a lineal descendant of General Thomas Posey, member of the staff of General George Washington in the Revolutionary War, and the first United States Senator from his state, and subsequently Governor of the then Indiana Territory.

Edward Lloyd Posey was educated at Spring Hill College, Alabama, from which he graduated with a B. A. degree. He returned to Louisiana and located in New Orleans where he accepted a commercial position which he held for several years. During this time he pursued the study of law at night and qualified himself to enter the law course of the then State University, now Tulane University, from which he graduated. He was in active practice for more than thirty-five years.

With the wisdom and foresight which few possessed, Edward Lloyd Posey early saw the great possibilities in the reclamation of the overflowed lands of Louisiana. He was the first to interest outside capital in the project and in conjunction with those who made investments in that line, he was instrumental in reclaiming vast tracts of marsh land and thus converting it into arable soil.

While not an active politician, he, nevertheless, felt great pride in his native state and his adopted city and took a deep interest in all that to him seemed to make for the development and advancement of the city and state. He was active in the reform movement in New Orleans which took definite shape in 1888 under the name of the Young Men's Democratic Association and was elected to the State Senate from the fifth senatorial district. While he did not subsequently hold any public position, he was identified with and took a deep interest in practically every movement having for its object the betterment of conditions which were objectionable. His activities were always conducted in that quiet, unassuming manner so characteristic of a well-bred man conscious of his own dignity and displaying innate modesty.

MAINE.

HENRY BRADSTREET CLEAVES.

Henry Bradstreet Cleaves was born in Bridgton, Me., Feb. 6, 1840, the son of Thomas and Sophia (Bradstreet) Cleaves. The Cleaves and Bradstreet families were among the early settlers in the town of Bridgton. He was educated in the public schools of his native town and was later a student of the Lewiston Falls and Bridgton Academies. He entered the Union army in 1861, enlisting at the age of 22 as a private, in Company B, 23d Maine Infantry, rendering faithful service throughout the period of his enlistment, attaining the grade of orderly sergeant in his company. He was mustered out at the close of the war and had the honor of being offered a commission in the regular army, which he declined, and returning to Bridgton, began the study of law. He was admitted to the Bar in September, 1868, and entered into partnership with his brother, Judge Nathan Cleaves, in the city of Portland.

In 1876 he was elected to the legislature as a representative from Portland, being re-elected in 1877, serving both terms as Chairman of the Judiciary Committee. He was city solicitor of Portland in 1877 and 1878. He was elected attorney-general of Maine in 1880, filling that important post with signal ability until 1885. In 1892 he was elected Governor of Maine and was re-elected in 1894. He entered the executive chair with hosts of friends and left it four years later with their number greatly increased. After his retirement from the office of Governor, he continued in the active practice of his profession and was recognized as one of the leading attorneys of the state. He died June 22, 1912.

CHARLES HAMLIN.

Charles Hamlin, who died in Bangor, May 15, 1911, was born in Hampden, Maine, Sept. 13, 1837, the eldest son of Hannibal Hamlin, United States Senator and Vice-President during Lincoln's first term. He graduated from Bowdoin College in 1857 and immediately began the study of law in his father's

law office. In due time he was admitted to the Bar in Penobscot County and at once began practice in Orland, Hancock County. Early in the Civil War he assisted in raising the regiment afterwards known as the First Maine Artillery and was appointed its major. He served with gallantry and distinction both on staff and in the line throughout the war and was brevetted brigadier-general for meritorious service.

At the close of his military service he resumed the practice of his profession, this time at Bangor. He was well read in the law and also in history and general literature. He did excellent work as reporter of decisions, in volumes 81 to 98, inclusive, of the Maine Supreme Court Reports. He was also for ten years register in bankruptcy and published a valuable work on the "Insolvent Laws of Maine." In 1867 he was appointed U. S. C. Ct. Commissioner and held that office till his death.

He served with credit in the Maine legislature as representative from Bangor in 1883 and 1885 and the latter year as speaker of the house. He was also a man of affairs, prominent in business enterprises and also in charitable organizations. Amid all these activities he did not forget his profession and besides attending to the practice of the law he was largely instrumental in the establishment of the law school of the University of Maine and served it as lecturer on "Bankruptcy and Insolvency."

Mr. Hamlin was much esteemed by the court and Bar and also by the people of the state. He was an able lawyer, a helpful friend and a pleasant companion.

MARYLAND.

THOMAS J. MORRIS.

Thomas J. Morris, late senior United States district judge for the District of Maryland, was born in Baltimore, September 24, 1837, and died at his home in Baltimore on June 6, 1912.

Judge Morris' father was John Morris, and his mother was before marriage Miss Sarah Chancellor. His preliminary education was received at the Medfield School, conducted by John

Prentiss in the suburbs of Baltimore. He entered Harvard College and was graduated in 1856; later he studied law in the Harvard Law School. After the completion of his course at Harvard he continued the study of law in the office of Hinkley & Morris, a firm comprised of the late Edward Otis Hinkley and the late John T. Morris, a first cousin of Judge Morris. He was admitted to the Bar of Baltimore City, November 19, 1860, and shortly afterwards became a member of the firm of Hinkley & Morris, in which firm he was actively engaged in the practice of law until his appointment to the federal Bench.

In July 1879, Judge Morris was commissioned by President Hayes as district judge for the District of Maryland, succeeding Hon. William Fell Giles. He took the oath of office July 16, 1879, being then in his forty-second year. Continuing on the Bench until his death, his service covered a period of nearly thirty-three years. His decisions antedate the first volume of the *Federal Reporter* and extend throughout that series of reports. After attaining the age of seventy years, at which he might have retired under the act of Congress, Judge Morris preferred to continue the active duties of the judicial office. Provision was made by Congress for an additional district judge for the District of Maryland during his lifetime, and the present district Judge, Hon. John C. Rose, was appointed in April, 1910.

It is difficult to describe adequately the esteem and confidence in which Judge Morris was held by the Bar and the entire community. Always patient, courteous and approachable in his manner to members of the Bar, and clear and sound, logical and convincing, polished and interesting in his judicial utterance, his career approached that of the ideal judge to a degree that few judges attain. The tribute to his memory by members of the Bar and the response from the Bench by his associate Judge Rose at the memorial meeting held June 14, 1912, fittingly marked the passing of a great jurist.

The members of the Bar Association of Baltimore City desiring near the close of his judicial career to testify their esteem and love for the judge who had so long presided in the federal courts of the Maryland District, presented on January 19, 1911,

a life-like oil portrait of him, which has been hung behind the Bench in the court room in which he sat.

In addition to the conscientious performance of the duties of his official station, Judge Morris was active in many fields of usefulness. He was a trustee of the Johns Hopkins University, Vice-President of the Enoch Pratt Free Library, President of the directors of the Aged Women's and Aged Men's Home, a trustee of the Maryland School for the Blind, President of the Harvard Club of Baltimore City, Vice-President of the American Unitarian Association, and Vice-President of the Red Cross Society. He was much interested in the work of the American Bar Association, the meetings of which he frequently attended, and was Vice-President of that body for the State of Maryland.

His religious faith was Unitarian, and he was a regular attendant and a member of the Board of Trustees of the First Independent Christ's Church.

Judge Morris was a man of wide reading, and his sympathetic and discriminating interest in literature covered a broad field. He was a graceful speaker, possessed of a fine sense of humor and most entertaining in conversation. His courtesy was as unaffected as it was unfailing and delightful.

Judge Morris' home life was most attractive and many friends were entertained at his charming home. He married in 1867 Miss Sarah Pinkerton Cushing, a daughter of Joseph Cushing, Jr. His wife and a daughter, Miss Josephine Cushing Morris, and a sister, Miss Elizabeth C. Morris, survive him.

C. AUGUSTUS E. SPAMER.

C. Augustus E. Spamer was born in Baltimore, September 25, 1843. Mr. Spamer was of German descent, his father Ludwig Spamer having been born in Oberschmitten near Frankfort-on-the-Main.

Mr. Spamer was educated in the public schools of Baltimore and at the Baltimore City College, from which institution he was graduated in 1860. He studied law in the office of Hinkley & Morris and was admitted to the Bar of Baltimore City on March 16, 1870. He was married on March 29, 1870, to Miss Abbie O.

Smith of Boston. Mr. Spamer leaves a son and two daughters surviving him, his wife having died in 1886.

He was a devout member of the Baltimore Society of the New Jerusalem Church, of which he was for many years President and Superintendent of the Sunday School. He was Secretary of the General Convention of the New Jerusalem Church for twenty years, up to the time of his death.

He was much interested in charitable work in many different fields and was Chairman of the District Board of the Federated Charities. He was also Treasurer of a special relief fund of that body.

He was for a number of years Treasurer of the Bar Association of Baltimore City, which position he resigned on the occasion of taking a trip to Japan in 1909.

He was well known to the members of the Bar of Baltimore City for his thorough and accurate work and his extreme patience and good nature. His law practice was more in the line of conveyancing than any other field, and he was rated as among the best conveyancers in Baltimore City. He was associated during the whole of his legal career with the office of Hinkley & Morris, becoming a partner after the death of Mr. John T. Morris, in 1909, at which time the firm of Hinkley, Spamer & Hisky was formed.

Mr. Spamer was a Union Veteran of the Civil War, having served in the Third Maryland Volunteer Infantry from March 22, 1864, until his discharge on July 31, 1865, having participated in the battles of the Wilderness and of Spottsylvania Court House. He was much interested in the Grand Army of the Republic and was appointed by Governor Warfield on the commission which erected a monument to the "Union Soldiers and Sailors."

Mr. Spamer's death occurred at Baltimore on January 7, 1912.

ARTHUR STEUART.

Arthur Steuart was born in Baltimore, November 19, 1856, the son of the late Dr. James A. Steuart, former health commis-

sioner of Baltimore. His mother was, before marriage, Miss Sarah Baxter of Baltimore. He received his early education in private schools, and studied at the Baltimore City College from 1872 to 1876, when he entered the newly organized Johns Hopkins University as one of its first students. Here he spent two years in the scientific department under Professors Rowland and Remsen. He served one or two summers in the drafting rooms of the Baltimore & Ohio Railroad, and became an accomplished mechanical draftsman. He matriculated in the department of law of the University of Maryland in 1878, and was graduated with the class of 1880. Thereupon he was admitted to the Bar in Baltimore and entered the office of Marshall & Fisher, a leading firm of the city. From 1884 to 1891 he was associated in practice with the late Benjamin Price and his brother James L. Steuart under the firm name of Price & Steuart. After the retirement of Mr. Price the firm became Steuart & Steuart and had offices in Baltimore, Washington and New York. The co-partnership continued until Mr. Steuart's death on January 22, 1912.

On October 27, 1886, Mr. Steuart married Miss Susan Ellicott who, with five children, survives him.

Early in his professional career, Mr. Steuart was known as an expert in Patent, Trade-Mark and Copyright Law, and thereafter devoted himself especially to that branch of practice. Thoroughly equipped by experience and study, he became one of the leading attorneys of the country in his chosen line of professional activity. The Federal Copyright Law of 1909 was largely his handiwork, as was also the Trade-Mark Act of 1905. For several years he had been actively engaged in the movement within the American Bar Association to create a special court of Patent Appeals. In collaboration with his late partner, Benjamin Price, he was the author of a volume entitled "American Trade-Mark Cases." He was prominently identified with the American Bar Association from 1894 until his death, and for many years served on important committees of the Association, and as an officer of its section on Patent, Trade-Mark and Copyright Law. He frequently read papers before the annual meeting of the section.

None could fail to recognize the transcendent superiority of Arthur Steuart's character. His unselfishness, his courtesy, his diligence and his professional efficiency were obvious to his associates; he had endeared himself to all of them. He was a high-bred Christian gentleman, devoted to the ideals of his profession, learned and industrious, honorable and zealous.

MASSACHUSETTS.

FRANCIS CABOT LOWELL.

Francis Cabot Lowell was born in 1855. He graduated from Harvard in 1876. After graduation he travelled for a year in Europe, and then studied at Harvard Law School. He was admitted to the Bar in 1880 and for eighteen years was engaged in the practice of law. During his practice at the Bar, a sincere, unselfish interest in public matters drew him into political life. He served in the Common Council of the city of Boston in the years 1889, 1890, and 1891; and in 1895 was chosen a member of the Massachusetts House of Representatives. A service of three years in that body gave him a place of marked preeminence in the legislature.

Judge Lowell was elected to the Board of Overseers of Harvard College in 1886, and held that office until 1895 when he became a Fellow of the Corporation of the University. He served as Fellow until his death.

In 1898 Judge Lowell was appointed by President McKinley United States district judge for the District of Massachusetts. In 1905 he was appointed a circuit judge for the first circuit by President Roosevelt. He died March 6, 1911.

GODFREY MORSE.

Godfrey Morse was born in Wachenheim, Bavaria, May 19, 1846. He prepared for college at the Boston Latin School and graduated from Harvard in 1870. He received the degree of LL. B. at the Harvard Law School in 1872 and was admitted to the Bar by the Supreme Judicial Court of Massachusetts in

1873, and to the Bar of the Supreme Court of the United States in 1879. From 1876 to 1878 he was a member of the School Committee of the city of Boston; in 1882 and 1883 he was a member of the Common Council of the city of Boston and during the last year was its President. From 1882 to 1884 he was assistant counsel of the United States in the Court of Commissioners of Alabama claims. In 1885 he was appointed a member of the Board of Court House Commissioners for the erection of a new court house for the city of Boston. In 1896 he was a delegate to the National Democratic Convention which met at Indianapolis and in 1897 and 1898 he was Chairman of the Massachusetts Committee as well as Chairman of the City Committee of the National Democratic Party. He was a member of the Board of Trustees of the Boston Dental College, President of the Leopold Morse Home, Vice-President of the Boston Home for Incurables and was President of the Federation of Jewish Charities of Boston. In 1900 he received the honorary degree of A. M. from Tufts College. On January 26, 1907, he married Jeanette Rosenfield. He was associated in the practice of law with Lee M. Friedman and Percy A. Atherton under the firm name of Morse & Friedman. He died after a short illness during a trip abroad at Dresden, June 20, 1911.

STEPHEN H. TYNG.

Stephen H. Tyng, son of Dudley A. and Catherine M. (Stevens) Tyng, was born at Hoboken, N. J., August 2, 1851.

He attended Kenyon College, Gambier, Ohio, 1867-1869, and the University of Michigan, 1869-1871. In 1871 he studied medicine in California, and the following year, 1872-1873, attended the Harvard Medical School. He then entered the Boston University School of Law, and graduated there with a degree of LL. B. in 1875. He was subsequently admitted to the Bar, and continued in the active practice of his profession until the time of his death. During his professional career he sat in many important cases, as auditor and master. He was a member of the Massachusetts Bar Association and of the American Bar Association.

MICHIGAN.

THOMAS LINCOLN CHADBOURNE.

Thomas Lincoln Chadbourne, during his entire professional career a member of the Bar of the county of Houghton, died at his winter home at West Palm Beach, Florida, April 18, 1911. Mr. Chadbourne was born at Eastport, Maine, April 13, 1841, and graduated at Harvard College in the class of 1862. Soon after his graduation he came to the upper peninsula of Michigan and for a time made his home at what is known now as Copper Falls, with his brother-in-law, Mr. C. F. Eschwieler, one of the pioneers of the copper mining industry.

He studied law with the late Hon. J. A. Hubbell and in 1864 was admitted to practice by the circuit court for the county of Houghton. He at once entered upon the active practice of his profession, first at Eagle River for a short time, then at Houghton where he permanently located.

On January 1, 1869, he entered into partnership with J. A. Hubbell, under the firm name of Hubbell & Chadbourne, which continued until 1876 when Mr. Hubbell retired to enter upon his career as a member of Congress. Mr. Chadbourne continued in the practice of law, later in association with A. F. Rees as the firm of Chadbourne & Rees, until December 31, 1907, when he retired.

Mr. Chadbourne, in July, 1869, married Georgianna, daughter of George Koeg. His wife, four sons and two daughters survive him.

Throughout his professional career Mr. Chadbourne was deservedly ranked as one of the leading members of the Bar of the State of Michigan. He was noted throughout this state and elsewhere among lawyers for his profound legal knowledge and attainments, and among all classes for his rigid integrity and uprightness. He was eminently successful as a practitioner, and had much to do with the formulating of the law of this state as it now exists in the decisions of the Supreme Court, many important questions having been decided in cases which he submitted.

While never a politician, he had a profound influence among the people, which was always used towards good citizenship and in wise statesmanship. His career as a lawyer has been an honor to this county and state and an example to those who follow him.

HENRY MARTYN DUFFIELD.

Henry Martyn Duffield was born in Detroit, May 14, 1842, and died July 13, 1912. He was educated in the public schools of Detroit, and graduated from Williams College in 1861. He enlisted in 1861; was made assistant adjutant-general for all the federal forces in Kentucky in 1862, and greatly distinguished himself as an officer.

When Major-General George H. Thomas was assigned to the command of the department of the Cumberland, young Duffield was appointed on his staff as assistant provost marshal-general of the department, and retained the rank until the close of the war.

In the Spanish-American War of 1898, General Duffield was appointed a brigadier-general of the American forces. He spent most of his life in Detroit, where he realized the best accomplishments of a successful career as a leading member of the Bar. General Duffield was admitted to practice in 1865, and formed a partnership with his brother D. Bethune Duffield. They were associated until 1876, when the partnership was dissolved and General Duffield practised alone.

His ability and success were turned to the benefit of the city. From 1867 to 1871 he was attorney for the Board of Education, which, through him, brought suit against the city and county to recover, for the benefit of the library fund, fines collected in the municipal courts. The decision obtained by General Duffield was the basis of Detroit's present library system.

He became city counselor in 1881, served three years, and was reappointed in 1884.

In 1903 General Duffield was appointed umpire for the Germany-Venezuela Claims Commission. This commission was the outcome of the troubles in Venezuela which culminated in the blockading of Venezuelan ports.

Henry M. Duffield was a lawyer of great ability, patient and careful in the preparation and trial of his cases. He was the first President of the Michigan Bar Association and Vice-President for Michigan of the American Bar Association.

His father was the Rev. George Duffield, pastor of the First Presbyterian Church of Detroit. His great-grandfather was the celebrated Rev. George Duffield, who, while serving as chaplain in the Continental Army, and as associate chaplain in the Continental Congress, was known as the "fighting parson." His mother was Isabella Graham Duffield, grand-daughter of Isabella Graham, whose memory is revered in the churches of Scotland and America.

General Duffield was highly respected, both as a private individual and public-spirited citizen. He never sought political office, although he took an active part in Republican politics. He was nominated for Congress in 1876 but was defeated. He declined the nomination for a state judgeship, although urged to accept by members of the Bar, irrespective of party. He was a delegate to the Republican national conventions of 1888 and 1892 and in the latter year was Chairman of the Michigan delegation. In 1888 he was Chairman of the Republican State Central Committee. He took a leading part in the social and civic life of the city, and was a member of nearly every prominent club and society in Detroit. In his death the city and state have lost one of their most respected and honored citizens.

HENRY A. HARMON.

Henry A. Harmon, son of Charles and Jane Anderson Harmon, was born at Charlton, New York, August 22, 1846, and died at Detroit, March 12, 1912. He was educated in his native state at the district school in Glenville, at Charlton Academy and in Union College, Schenectady, where he graduated in 1868. He then went to Detroit and studied law in the office of Newberry, Pond & Brown, and was admitted to the Michigan Bar April 30, 1870.

He began the practice of his profession soon afterward and in a few years he entered the law firm of Meddaugh, Driggs &

Harmon, which firm continued in practice until about 1891. Thereafter Mr. Harmon practised alone and gave his entire time and attention to his profession. He was a member of the Detroit Bar Association from its organization and also a member of the American Bar Association from 1895 until his death.

From 1883 to 1887 he was a member of the Detroit Board of Education, a trust for which his education, scholarly tastes and high ideals eminently fitted him.

In 1899 Mr. Harmon received the Democratic nomination for one of the judges of this circuit, but was defeated with his ticket. In 1907 he was a Democratic nominee for regent of the University of Michigan but was again defeated with his ticket.

In his practice he preferred dealing with questions of law rather than questions of fact. He disliked the sharp contests of *nisi prius* trials. He was a careful, honest and capable counselor and a fair, honest and industrious lawyer. The court found him well prepared and entirely trustworthy. For many years he was engaged in important litigation affecting banking interests and he was a director and attorney for the Old Detroit National Bank and attorney for the Detroit Trust Company.

His wit was always tempered with kindness; his diction was that of the educated gentleman and his sweetness of temper suggested a serenity as unusual as it was genuine.

MINNESOTA.

WILLIS EDWARD DODGE.

Willis Edward Dodge was born at Lowell, Vermont, May 11, 1857, and died at Minneapolis, November 19, 1911.

He was the eldest son of William Baxter Dodge and Harriette Newell Dodge. His early education was received in the public schools of Lowell and Westfield. He attended and graduated from the St. Johnsbury Vermont Academy. His early legal education and training was received in the law offices of the Hon. F. W. Baldwin of Barton, Vermont. He was admitted to the Bar in 1880, and thereupon went West, entering the law offices of Roberts & Spalding of Fargo, Dakota Territory. From

Fargo he went to Jamestown, North Dakota, then Dakota Territory, and formed a partnership with A. A. Allen, the firm being known as Allen & Dodge. While at Jamestown he was a member of the legislature of Dakota in 1886 and 1887, and took a prominent part in shaping the destinies of North and South Dakota.

Mr. Dodge specialized in railroad and corporation law and gained great distinction in that line, and through his ability as a lawyer, became widely known throughout the Northwest. In 1887 he went to Fargo as legal representative of the St. Paul, Minneapolis & Manitoba Railway Company for Dakota. From Fargo he came to Minneapolis as special attorney for the Great Northern Railway Company, and also became attorney for the Minneapolis Trust Company, representing that company in the famous Northwestern Guaranty Loan Company litigation.

In 1902 Mr. Dodge, then general attorney of the Great Northern Railway Company, with headquarters at St. Paul, Minnesota, resigned that position and entered the general practice of law at Minneapolis. In 1907 he formed a partnership with William A. Tautges under the name of Dodge & Tautges, and remained the senior member of that firm until his death.

He was married at Vinton, Iowa, March 27, 1882, to Miss Harriet Maud Crist, and is survived by her and a daughter, Dorothy Dodge Wilcox.

HENRY J. GJERTSEN.

Henry J. Gjertsen was born on October 8, 1861, near the city of Tromsøe, Norway. His parents were Captain Herman J. Gjertsen and Albertina V. Gjertsen, née Wulf. His father removed with his family to the United States in 1868 and settled in what is now a part of the city of Minneapolis, Minnesota.

Henry Gjertsen was six years old when his parents came to the United States. He received his early education in the public schools of Minneapolis and graduated from the high school there in 1878. Subsequently he attended the Hauge Seminary at Red Wing, Minnesota, from which institution he graduated in 1881. Immediately after his graduation, he took up the study of law with Judge Lang, of Minneapolis, and was admitted to the Bar

in 1884 at the age of 23 years. For some time he engaged in the practice of his profession alone. Later he became associated with Robert Christensen, and thereafter with Mr. L. M. Rand. In 1904 he formed a partnership with Henry A. Lund under the name and style of Gjertsen & Lund, which co-partnership continued until the time of Mr. Gjertsen's death, December 2, 1911.

Mr. Gjertsen was much interested in civic affairs and served for two years with distinction as a member of the first charter commission of Minneapolis. He likewise served as inspector-general on the staff of Governor Lind and was judge-advocate-general under Governor Van Sant, both of Minnesota. On January 1, 1902, he became a member of the state Senate and served four years. During his senatorial term of office the statutes of the State of Minnesota were revised and as a member of the Senate Judiciary Committee, Mr. Gjertsen rendered valuable service to his state and its Bar. He was, for years, a member of the National and State Bar Association, the Masonic and other fraternal societies, the Commercial, Odin and other clubs, President of the Pacific Coast and Norway Packing Company, and greatly interested in many other business and civic organizations and enterprises. He was married on January 4, 1883, to Miss Gretchen Goebel, a native of Frankfurt-am-Main, Germany.

Mr. Gjertsen was a man of excellent physique, splendid mentality and strong personality. He had a large practice, enjoyed the confidence of the courts and Bar alike, and as a trial lawyer had few equals at the Minnesota Bar. He will be remembered as a man of sterling character, unimpeachable integrity and unswerving fidelity to his client, and usefulness as a citizen.

MISSISSIPPI.

THOMAS ANDERSON McWILLIE.

Thomas A. McWillie was born in Madison County, Mississippi, July 18, 1849, and died at Jackson, Mississippi, July 20, 1911. His father, William McWillie, a man of prominence and a distinguished member of the South Carolina Bar removed to

Mississippi and became Governor of the state in 1858. His mother, before marriage, was a Miss Anderson of Camden, South Carolina, and a woman of rare culture and intellectual worth.

He was educated at the University of Mississippi; completed his course there in 1871 and soon thereafter removed to Jackson, the state capital, and for two years was a deputy clerk of the Supreme Court of the state, during which time he prepared himself for admission to the Bar. He entered upon the practice of law at Jackson in 1874 and at once took and ever afterwards maintained an exalted position in the profession.

Shortly after coming to the Bar he was elected to the legislature of the state, but within a short time retired from politics to devote himself exclusively to his chosen profession. It is believed that he appeared as counsel before the Supreme Court of Mississippi in a larger number of reported cases than any other member of the Bar. He was a lawyer of great ability and untiring energy, a man of splendid literary attainments and was courteous and refined in all dealings with his fellow-man. Few lawyers attain so high a stand in the estimation, or so warm a place in the hearts of his professional brethren.

Mr. McWillie, at the time of his death, was the official reporter of the Supreme Court of Mississippi and reported volumes 73 to 96, inclusive, of the Mississippi Reports. These volumes are monuments to his legal learning and scholarly attainments.

MISSOURI.

JAMES BRITTON GANTT.

James Britton Gantt spent his early life on a farm in Georgia and attended the local preparatory schools. At the age of about 16 he enlisted in the Confederate army, and made a splendid record for bravery. He was desperately wounded, at least twice, once left for dead on the field of battle. At the close of the war he entered the University of Virginia, graduating from the literary department with high honors. He entered the law department of that university, and completed the course. Always an intense, intelligent student he stood foremost in his class. He came to St. Louis soon after graduation and was admitted to the Bar.

Before he made any strides in his profession he went to Sedalia, with a letter of introduction to the late Senator George G. Vest and Judge John F. Philips, who were partners in the practice of law. It was under the advice of Judge Philips that he went from St. Louis to Clinton, Henry County, Missouri, where he was admitted to a co-partnership in one of the leading law firms there.

There was something indefinable about the face, the bearing, the frankness and speech of this young man that made an indelible impression upon every observant man who came in contact with him. His career at the outset was remarkable for its success. Without money, or prestige, but with a courage and optimism that ever marked his life, he made friends, won causes, and seldom lost a client. By 1874 he had become one of the leading men in his county. He enjoyed, in rare degree, the confidence of all. Though a decided Democrat in politics, and active counselor in its party management, he was not a bitter partisan.

In 1875 he went to Sedalia and became a partner with Senator Vest. When the latter went to the United States Senate in 1879 Judge Gantt returned to his office in Clinton, and in partnership with Judge James Park, enjoyed a lucrative practice.

His learning and judicial temperament called him to the state circuit Bench. In this position he displayed such rare qualities, as an administrator of the law, that he was called, by popular vote, to the Supreme Court Bench, which position he held until January 1911. He made an enviable reputation as a jurist. His industry, learning, broadness of view, and fearless independence, made him one of the greatest judges who had adorned that Bench in many years.

He was 67 years old at the time of his death; he died in full-armed mental vigor, universally loved and admired by all who knew him.

HERBERT ROGERS MARLATT.

Herbert Rogers Marlatt died May 17, 1912, at the age of 41 years. He was born in Warrensburg, Missouri, September 10, 1870, and after graduating from the Normal School at that

place, and after a short period of teaching, attended Oberlin College, and later the University of Michigan at Ann Arbor. He received degrees of A. B. and LL. B. from the latter institution.

Early in 1897, Mr. Marlatt came to St. Louis and began the practice of law. Soon after he became a member of the law firm of Johnson, Houts, Marlatt & Hawes. This firm was dissolved a short time before Mr. Marlatt's death, and the new firm of Johnson, Rutledge, Marlatt & Lashly was organized.

Mr. Marlatt won marked distinction in the famous case of Huttig Sash & Door Co. *vs.* Shine, et al., wherein he succeeded in obtaining an injunction against boycotting in labor strikes, thereby reversing the former decision of the Missouri Supreme Court in the Marx and Haas case. From 1904 to 1908 he was the attorney for the public administrator of St. Louis and for the city collector of that city. In addition to his private work Mr. Marlatt acted as professor in the St. Louis University of Law, teaching the subject of contracts, and was known as one of the ablest men in the faculty. He was married on October 10, 1900, to Miss Esther May Sanderson.

Mr. Marlatt's life was characterized by sincerity, efficiency and altruism. He earned his own way through college and the law school, winning distinction as a student. He was a valued and loved member of the First Presbyterian Church of St. Louis. He was sincere and conscientious in all of his undertakings and everything he did was his best effort. He made his practice of law not an aim itself but a means; a means to greater usefulness, thereby gaining a splendid record both as a lawyer and as a man.

EDWARD S. ROBERT.

Edward S. Robert, a member of the St. Louis Bar, died December 12, 1911, at St. Louis, Mo. He was born October 31, 1854, in Greenville County, Va. His parents, Rev. P. G. and Betty S. Robert, removed in 1866 to Little Rock, Ark., then in 1869, to St. Louis. Mr. Robert was educated in the St. Louis public schools, but left them at an early age for commercial

work. He, however, continued his studies and thereafter entered the law department of the Washington University and was graduated with honors in 1881.

When Mr. Robert entered the practice of law it was in connection with the firm of Hitchcock, Madill & Finkelnberg, which firm was composed of Hon. Henry Hitchcock, former Judge George A. Madill, and Judge Gustavus Finkelnberg, the last named afterwards judge of the United States circuit court of St. Louis. When this firm dissolved Mr. Robert engaged in the general practice of law, a great part of his clientele being railroads and corporations. In 1907 Mr. Robert, with his brother Douglas W., formed the firm of Robert & Robert, with which he was connected until his death.

In 1896 Mr. Robert was appointed lecturer on the subject of "Evidence" by his alma mater, and continued in that capacity until he died. He was a member of the American, Missouri and St. Louis Bar Associations and all of the prominent clubs of St. Louis.

NEBRASKA.

CHARLES J. GREENE.

Charles J. Greene was born in Madison County, New York, July 4, 1849. He was educated in the public schools of New York and Illinois, and served during the latter part of the Civil War as a private in the 141st Illinois Volunteer Infantry. He was admitted to the Bar in 1871, and shortly afterwards established himself in the practice of the law in the city of Omaha, Nebraska, continuing in active practice until the time of his death in August, 1911.

He was a man of rare attainments and great personal magnetism. He was a profound lawyer, a student of history and philosophy, familiar with the best of English literature in both prose and verse; he was logical and accurate in thought, because brain and heart worked in unison. He had intellectual and moral courage; he was a man of high ideals and noble purpose and a lover of freedom. He was an orator with rare persuasion

of speech, a high-minded man with a genius for friendship, who drew men to him by the exalted qualities of his character.

Engaged during most of the years of his professional life in representing the legal interests of large corporations, he never for an instant permitted a private client to dictate his political action in matters touching public affairs; aside from the immediate case in question, where his services were especially employed, "the hand of Douglas was his own."

NEW JERSEY.

WILLIAM HORACE CORBIN.

William Horace Corbin was born in McDonald, New Jersey, July 12, 1851, and died at Elizabeth, N. J., September 25, 1912.

He was educated at Cornell University and at the Law School of Columbia University, New York, graduating from the latter institution in 1872. In the same year he was admitted to the Bar of New York, and in 1874 was admitted in New Jersey. He removed his residence to Elizabeth, N. J., in 1870, and soon became active in local politics. In 1884 he was elected to the New Jersey state legislature, where he served for three terms. During part of this time he was Republican leader in the legislature. In 1890 Mr. Corbin acted as counsel for the Legislative Committee which investigated the ballot box frauds in Hudson County. In 1895 he acted as counsel for the Senate in the "State House" investigation, through which a large amount of money was annually saved the State of New Jersey. He was also counsel in other legislative investigations.

Mr. Corbin was an able lawyer and a shrewd business man. He was especially versed in the law of Corporations, Waters and Railroad Taxation. He was one of the revisers of the New Jersey General Corporation Act of 1896 and the author of an annotated edition of that act which has been since revised. In 1882 he compiled a book known as "Corbin's Forms" which has been very useful to the profession.

He helped to organize the New Jersey Guaranty & Trust Company of New Jersey, and later became its President. He was a

director in many financial and mercantile concerns. He was a member of the Union League and Railroad Clubs of New York City, and of other clubs and organizations in New Jersey.

In 1878 Mr. Corbin married Miss Clementine Kellogg of Elizabeth, N. J. He is survived by his widow and two sons, Clement K. Corbin and Horace K. Corbin.

SHERRERD DEPUE.

Sherrerd Depue was a son of Chief Justice Depue of the New Jersey Supreme Court from whom he inherited many sterling qualities. He was educated at Princeton College and was graduated from there in the year 1885. He then attended the Columbia Law School and became a student at law in the office of Frederic W. Stevens (now vice-chancellor). In June, 1888, he was admitted to the Bar and three years later took his counselor's license. In November 1888 he entered upon the practice of his profession, being associated with Mr. Chauncey G. Parker, and served later as assistant United States district attorney for the State of New Jersey and as city attorney for the city of Newark. In the year 1898 he joined the firm of Lindabury, Depue & Faulks, and continued in that firm until his untimely death on October 8, 1911, at the early age of forty-seven years.

Mr. Depue was deeply read and learned in the law. He became thoroughly acquainted with the thorough and painstaking methods of preparing legal opinions for which his father was noted, and absorbed those methods until they were ingrained in him. His practice was large and varied, and his energy and industry were unsurpassed. He had great acumen, coupled with the sound methods of investigation and research, and added to this a good judgment and great fairness and sense of justice. Apart from all these qualities his unfailing courtesy and kindness greatly endeared him to all those with whom he came in contact. It is the unvarying opinion that in his death the state lost a most valuable public servant.

WILLIAM M. LANNING.

Born in Ewing township, N. J., January 1, 1849, the son of a farmer, Judge Lanning was descended from ancestors who were among the earliest settlers of New Jersey. After finishing his common school course, he graduated from the Lawrenceville High School in 1866, following which he was a teacher in the public schools of Mercer County for six years. From 1872 until 1878 he was a teacher in the old Trenton Academy. In 1878 and 1879 Judge Lanning was principal of the public schools of East Trenton. The last four years of his time as a teacher were spent in the study of law. This culminated in his admission to the Bar as an attorney, in November, 1880, and as counselor in 1883.

A year after he was admitted to the practice of law, Judge Lanning was chosen as city counselor of Trenton. He served in that capacity three years and was then appointed judge of the city district court. This was in 1887. Occupying that position until 1891, Justice Lanning, with other district court judges, went out of office through political exigencies.

Among the notable works of the decedent was the compilation, in collaboration with Judge Vroom, of the "Supplement to the Revision of the General Statutes of New Jersey," which was published in 1887. In 1894 by the authority of the legislature, they compiled and published a revised edition of the general statutes.

Judge Lanning was a member of the special commission which framed the present comprehensive township laws. He was also a member of the Constitutional Commission of 1894. For a number of years he was a director of and counsel for the Mechanics' National Bank and counsel for the Trenton Banking Company. He was a member of the Board of Trustees of the General Assembly of the Presbyterian Church in the United States of America, a director of the Princeton Theological Seminary and a trustee of the Lawrenceville School.

In 1902 Judge Lanning was elected to Congress. He resigned after the first session of the Fifty-eighth Congress in order to qualify as United States district judge for the District

of New Jersey. He became a United States circuit judge for the third judicial circuit on May 21, 1909.

The judge was always noted for the conscientious, painstaking way in which he performed duty devolving upon him and the important litigations in which he has figured during the past few years imposed upon him a burden to which he devoted his entire time and energy. Many new problems arose for solution and these received from Judge Lanning the most careful consideration.

Judge Lanning was a logician, but never sacrificed law to logic, nor did he ever fritter away substantial justice upon mere refinement of reasoning. Like equity itself, he penetrated all disguises of form, and, disregarding the shadow, grasped the substance. He was a religious man—a man of devotional nature. He served the church and state, yet neither at the expense of the other, and while sustaining both in their unwedded spheres, served each with all his zeal.

Judge Lanning died Feb. 16, 1912, and his wife and two sons, Kenneth and Robert S. Lanning survive him.

NEW YORK.

ROBERT MATHER.

Robert Mather was born at Salt Lake City, Utah, July 1, 1859, the son of James and Margaret (Holt) Mather. He was educated in the public schools of Galesburg, Ill. Three years were spent in the learning of a trade in a factory engaged in the manufacture of telegraph instruments and switchboard apparatus. Thereafter he entered Knox College, at Galesburg, graduating in 1882, with the degree of A. B. In 1885 he received the degree of A. M., and in 1907 his alma mater conferred on him the honorary degree of LL. D.

He entered the Treasurer's office of the Chicago, Burlington & Quincy Railroad in Chicago and remained there until 1885, devoting his spare time to the study of the law. In 1886 he was admitted to the Illinois Bar. For three years thereafter he engaged in the general practice of his profession in Chicago.

In 1889 he became local attorney at Chicago of the Chicago, Rock Island & Pacific Railroad Company. He held this place until 1891, when he was promoted to be assistant general attorney. From 1894 to June, 1902, he was general attorney. In June, 1902, he was made general counsel of the same road.

In the meantime he had been elected Second Vice-President of the Chicago, Rock Island & Pacific Railway. In October, 1904, he became Chairman of the Executive Committee of this railway company and at the same date was elected President of the Rock Island Company, of New Jersey.

He had been Third Vice-President of the St. Louis & San Francisco Railroad from 1903 to April, 1904, and in April, 1904, was made First Vice-President of the same road. He had also been First Vice-President of the Chicago & Eastern Illinois Railroad Company, and the Evansville & Terre Haute R. R. Co.; and Chairman of the Board of Directors of the St. Louis, Kansas City & Colorado Railroad.

In January, 1909, Mr. Mather was made Chairman of the Board of Directors of the Westinghouse Electric and Manufacturing Company, and thereupon severed most of his railroad connections.

Mr. Mather was married in Detroit, Mich., on April 23, 1892, to Alice Caroline, a daughter of Horatio Jell, of Walkerville, Canada. He died in New York City, October 24, 1911.

JOHN J. McCOOK.

John James McCook was born at Carrollton, Ohio, May 25, 1845. He entered Kenyon College, but left at the end of the first year to serve in the Civil War, enlisting in the Fifty-second Ohio Infantry. He was one of a family known as "the fighting McCooks," notably represented in the Union service. Later, he was commissioned as first lieutenant of the Sixth Ohio Cavalry, and became a captain and aide-de-camp of United States Volunteers, serving in numerous campaigns, and being severely wounded in the battle of Spottsylvania Court House. He was then mustered out as brevet-colonel of volunteers.

Re-entering Kenyon College, he was graduated there in 1866 and from the Harvard Law School in 1869. In 1873 he received

the honorary degree of Master of Arts from Princeton University, and in 1890 from the University of Kansas, and in 1893 from Lafayette College the degree of LL. D.

After removing to New York, he became connected with the firm of Alexander & Green, of which he was the senior member at the time of his death. In the course of a long practice, he became counsel for numerous insurance, railroad and financial corporations, and was a member of many boards of directors.

Having taken an active interest in political affairs, he was invited to a place in President McKinley's first cabinet. He became Chairman of the Army and Navy Christian Commission during the war with Spain, and was influential in many public movements.

Through continued interest in Kenyon College he became a trustee of that institution, and, deeply concerned in religious and ecclesiastical subjects, became a director of the Princeton Theological Seminary. At the time of his death, September 17, 1911, he was President of the Ohio Society of New York and of the Phi Beta Kappa Alumni of New York, and from 1872 was a member of the Association of the Bar of the City of New York.

A man of commanding presence, genial manners and great earnestness, he was a striking figure in the professional and business life of the community in which he lived.

HINSDILL PARSONS.

Hinsdill Parsons was born on February 10, 1864, the son of J. Russell Parsons, of Hoosick Falls, N. Y. After completing his common school course he entered Trinity College, Hartford, Connecticut, graduating in 1884. He then attended the Albany Law School, where he was graduated in 1885. He was admitted to the New York State Bar in 1885, and in 1889 was appointed patent attorney for the Walter A. Wood Harvester Company, of Hoosick Falls.

In 1894 Mr. Parsons came to Schenectady and joined the staff of the General Electric Company. His first position was that of counsel, and in May, 1901, he was elected Vice-President and given charge of the company's legal business as general counsel. He was also made President of the Schenectady Railroad Com-

pany. Subsequent to the panic of 1907 he was largely instrumental in effecting the successful readjustment of the affairs of the suspended Knickerbocker Trust Company, of New York City. He was a member of the St. George's Episcopal Church. In 1889 Mr. Parsons married Miss Jessie Mary Burchard.

The story of Mr. Parson's career with the General Electric Company is one long record of achievement. To his brilliant hereditary gifts, he added an intuitive penetration of mind and the power of incisive concentration on the work in hand, until he had achieved complete and exhaustive mastery of the subject of study. He did not possess the forensic ability of a great advocate, but he had an instinct for correctly appraising the legal merits of a case, and the ability and persistence for acquiring intimate knowledge of its smallest details. His knowledge of the intricacies of corporation law was comprehensive and exact.

He died April 28, 1912.

WILLIAM HEPBURN RUSSELL.

William Hepburn Russell died in the city of New York on November 22, 1911, at the age of fifty-four.

Mr. Russell was born in Hannibal, Missouri, in 1857, and was educated in the public schools and in the commercial college of that town. Beginning active life in journalism, he was, for a time, a reporter and finally the editor-in-chief of one of the local newspapers, and remained a journalist until he was twenty-five years old, when he was admitted to the Bar.

In the year of his admission he was appointed city attorney for Hannibal, and served two terms in this office. Afterward he became the general attorney for the Louisville, New Albany & Chicago Railway Company, and removed to Lafayette, and later to Franklin, Indiana. Still later he removed to Chattanooga, Tennessee, where he took an active interest in political affairs, and was chosen a Democratic presidential elector for that state in 1892.

In 1895 Mr. Russell went to the city of New York and opened a law office there, practising largely in the federal courts. He took an active interest in political affairs. In 1908 he was a

delegate from New York to the Democratic National Convention held at Denver.

In addition to his law practice Mr. Russell found time to write and publish many articles on legal subjects, and, with Mr. William B. Winslow, compiled a syllabus digest of the United States Supreme Court Reports. After the failure of the Mutual Reserve Life Insurance Company he was appointed one of the receivers and continued to act as receiver up to the time of his death. He was also, until his death, President of the Boston National League Baseball Company.

In 1888 he married Miss Mary Gushert. His wife, five daughters and one son survive him.

JAMES LEE SCOTT.

James Lee Scott was born January 9, 1856, at Balston Spa, New York, and died at Saratoga Springs, New York, on January 9, 1912. He was the son of Judge George Gordon and Lucy (Lee) Scott.

He was graduated from Williams College in 1876, having prepared for college at Greylock Institute, South Williamstown, Massachusetts. He read law with his father, and then took the senior year legal course at Columbia University in New York City, graduating from there in 1878. He practised law at Ballston Spa until 1900, when he removed to Saratoga Springs.

Mr. Scott was appointed by Governor Cleveland in 1883 commissioner of the United States deposit fund, and served in that capacity until he resigned in 1886. In December of that year he was appointed county clerk of Saratoga County, which office he held until January 1, 1888. In 1898 he was appointed referee in bankruptcy for the counties of Saratoga, Schenectady and Warren, and filled that office for twelve years.

Mr. Scott had many important business interests, having been President of the Congress Spring Company, President of the Ballston Refrigerating Storage Company, First Vice-President of The Adirondack Trust Company of Saratoga Springs, and Vice-President of the Security Steel & Iron Company of Troy. He was a member of the law firms of Rockwood, Scott & McKelvey at Saratoga Springs, and Scott & Brown at Ballston Spa.

NATHANIEL STEVENS SMITH.

Nathaniel Stevens died in New York City March 23, 1912. He was born in Southwick, Mass., July 4, 1847, and took his Bachelor's degree at Harvard in 1869. While in college he was one of the prominent men of his time. He played for several years upon Harvard baseball nines, the record of whose success is still part of the history of the college. In 1872 he received from Harvard the degree of Master of Arts. He was admitted to the Bar of New York State on June 6, 1872. Since that time and until his death he practised his profession with zeal and pride taking a high place at the Bar. For many years he had been a referee in bankruptcy.

Early in his residence in New York he became a member of the Harvard Club of New York City. In January, 1881, he was elected its Secretary and served as such until 1888. During this period the club was his constant attention, and his unflagging loyalty and interest in the promotion of its welfare contributed in large part to its subsequent success and its present condition.

On June 8, 1882, Mr. Smith married, in New York, Miss Mamie King, and their two sons have continued their father's interest in Harvard and in the Harvard Club.

OHIO.

RANKIN DILWORTH JONES.

Rankin Dilworth Jones was born in Vermont, Cook County, Illinois, September 20, 1846. His father was John Edward Jones and his mother Abigail Dilworth. His parents moved to Cincinnati, Ohio, when he was one year old and here he received his education in the public schools and was graduated at Hughes High School in the class of 1864. During the Civil War, he volunteered in what is known as the Hundred Day Service. During the years of his high school career he studied law. He finished the law school at the age of nineteen, but could not be qualified until he arrived at the age of twenty-one, when he was admitted to the Bar. He first was associated

with Lincoln, Smith & Warnock, a firm then active in admiralty law along the Ohio River. Subsequently, he started in practice for himself making a specialty of patent cases, and for a long time was master in chancery for questions arising under the Patent Laws.

For some years he was connected with the Davenport Dramatic Club. Mr. Jones became interested in theatrical law, which formed the special feature of his practice in his later years.

On April 20, 1871, Mr. Jones married Miss Sarah E. Keeler and had a family of six children, four girls and two boys.

OREGON.

STEWART B. LINTHICUM.

Stewart B. Linthicum was born in Baltimore, Maryland, May 9, 1861. He took the under-graduate course at the Johns Hopkins University, and afterwards studied law with his cousin, Julian Alexander, in Baltimore, taking the law course at the University of Maryland. He was admitted to practice in the Court of Appeals in Maryland in October, 1883, and came to Portland a few months later, was admitted to practice in the Supreme Court of Oregon in January, 1884, and in 1887 became associated with the late George H. Williams ex-attorney-general of the United States and C. E. S. Wood. A few years later became a partner with them under the firm name of Williams, Wood & Linthicum, continuing with this firm up to the time of his death.

In 1892 he married Miss Maria Louise Wilson. He died in Portland on July 2, 1911, leaving surviving him his widow, a son and daughter.

He combined rare business sense with a clear, technical knowledge of the law, which made his services invaluable in handling the important matters and shaping the affairs of large corporations who were his clients. He had a gracious, winning manner, always approachable, giving the same patient attention to the recital of the troubles of some humble client as he would to the demands of the corporations he represented, and even when over-

whelmed with the pressure of most important work he would unhesitatingly listen to a less experienced younger member of the Bar and help unravel his perplexities. His nature was naturally buoyant and optimistic.

WILLIAM T. MUIR.

William T. Muir was born in Booneville, Missouri, November 4, 1863. Both of his parents died in his youth, and he was early thrown on his own resources. Before leaving his native state he learned to telegraph, and, by his efficiency and ability, became train dispatcher when but fifteen years of age. He later secured a place as private Secretary to the President and general manager of the Oregon & California Railroad Company, and moved to Oregon.

While acting as private Secretary, Mr. Muir attended the law school of the University of Oregon. He graduated in June, 1887, and was admitted to the Bar of Oregon on the 8th of the following October. He then entered the office of Judge J. W. Whalley, and remained in this office until Judge Whalley retired from practice in 1889. The following year he formed a partnership with Sanderson Reed. In 1897 another partnership was formed under the firm name of Fenton, Bronaugh & Muir, and this partnership continued until 1900, when Mr. Muir withdrew to become general counsel for the Oregon Water Power & Railway Company.

Mr. Muir continued in the practice of his profession in the city of Portland, being closely identified with some of the important interests in the city. In his later years, his strength failed and he was obliged to spend much time in search of health. He died November 4, 1911—the forty-eighth anniversary of his birth—at Tucson, Arizona, where he had gone in the hope that he might regain his strength.

In the year 1898, Mr. Muir married Miss Jane Whalley, a daughter of Judge Whalley. To them were born one son and two daughters.

During his entire career Mr. Muir took a deep interest in public affairs and in the life of the community. In the early nineties he served one term as city attorney for Portland, and in 1905 he was elected a representative to the state legislature from Multnomah County.

Mr. Muir was a man of the highest integrity and honor. He carried out vigorously whatever he undertook and devoted his best energies to those whom he served, and honored his calling by his high professional standards.

PENNSYLVANIA.

FRANCIS WILLIAM RAWLE.

Francis William Rawle, son of James Rawle and Charlette Collins (Parker) Rawle, was born in Rosemont, Pa., September 22, 1873. He died June 12, 1911, at Bryn Mawr, Pa. He fitted for college at Phillips Exeter Academy and graduated from Williams College in 1895. He studied law at the law schools of Harvard and the University of Pennsylvania and received a degree of LL. B. from each. After his admission to the Philadelphia Bar, he began practice with his uncle, Francis Rawle, and in 1900 entered the office of William Brooke Rawle, an office founded by his great grandfather William Rawle in 1783 and continued in unbroken succession by him and by William Rawle, the reporter, William Henry Rawle and William Brooke Rawle, until that time. Though a comparatively young man, he was recognized by the Bar as a sound and able lawyer, painstaking and thorough in his professional work, and of a most attractive personality.

He found time in the midst of his professional labors for nature studies in ornithology and zoology, both in the library and in the field. His collection of works on these subjects, chiefly ornithological, was complete and valuable.

He married Harriet Corning, daughter of Erastus Corning of Albany. Two sons survive him.

SOUTH DAKOTA.

CHARLES WELLINGTON BROWN.

Charles Wellington Brown was born in Winchester, Illinois, May 8, 1859, and died at Rapid City, South Dakota, February 21, 1912.

Mr. Brown graduated in 1881 from Blackburn College at Carlinville, Illinois, and in 1883 from the law school of Yale University. He entered on the practice of the law at Rapid City, South Dakota, in 1888, and continued to reside at that place and practise his profession until his death.

Mr. Brown was a lawyer of marked ability and achieved success in the practice of his profession. In the conduct of his practice and in his relations to the Bench and Bar, he maintained a high standard of ethics and morals. He was highly honored throughout the state and no member of the Bar of the state was more generally esteemed. He was active in all movements for the promotion of the welfare of the community in which he resided, and served one term as mayor of Rapid City.

BARTLETT TRIPP.

Bartlett Tripp was born at Harmony, Maine, July 15, 1842, and died at Yankton, South Dakota, December 8, 1911. He was a descendant of Josiah Bartlett, a signer of the Declaration of Independence.

After graduating from Waterville College, now Colby University, in Maine in 1861, he engaged in teaching at Salt Lake City, Utah, from 1861 to 1864 when he entered the Albany Law School from which he graduated in 1866. In 1869 he located at Yankton, in the then Territory of Dakota, and engaged in the practice of law. He maintained his residence in Yankton from that time until his death.

He was a member of the Dakota Territorial Codification Commission in 1877, was the Democratic nominee for delegate in Congress from Dakota Territory in 1878, was President of the First Constitutional Convention organized in the southern part

of the Territory of Dakota in 1883 to prepare a constitution for the proposed State of South Dakota, was appointed in 1885 chief justice of the Territory of Dakota and filled that position until the dissolution of the territory and the admission into the union of the states of South Dakota and North Dakota in 1889.

In 1893 Judge Tripp was appointed by President Cleveland minister plenipotentiary and envoy extraordinary to Austria-Hungary. He served in that position with marked success.

After retiring from that position because of the change in the national administration he was, though a Democrat, chosen by President McKinley in 1899 a member of the High Joint Commission to settle the Samoan questions then at issue between Great Britain, Germany and the United States and acted as Chairman of that commission. He discharged his duties on that commission with signal ability.

When not serving on the Bench or in a diplomatic position, he practised law at Yankton and throughout the Northwest. He was a lawyer of high ability. He gave freely of his time to the service of the public and was a leader of all movements in the city and state of his residence directed towards the improvement of local and state conditions. He was one of the incorporators of Yankton College and was a member of the first governing board of the University of South Dakota.

TENNESSEE.

WILLIAM HENRY WILLIAMSON.

William Henry Williamson was born November 8, 1873, in Wilson County, Tennessee, and here he spent his boyhood days. He acquired his education at Cumberland University in Lebanon, and was a graduate of the literary and law departments of that institution. After his graduation from Cumberland University, Mr. Williamson removed from Lebanon to Nashville, where, in 1895, he began the practice of law. He continued in the active practice of his profession up until the time of his death. His ability and attention to business won him a

place in his profession at the start. He confined himself to no particular branch of the law, and soon achieved a large general practice in all of the courts. At the time of his death he was general attorney for the Tennessee Central Railroad Company.

June 8, 1909, he married Miss Mary Ready Weaver, of Nashville, Tenn. His widow and two children survive him.

As a lawyer he was learned, diligent and industrious, and a safe counselor and adviser. His unusually large practice in the courts, obtained through his merits alone, bears testimony to his eminent ability as a trial lawyer and advocate. In his associations with his professional brethren at the Bar he had permanently established his character for truth, sincerity and honesty. No man ever questioned his word, or doubted the fulfillment of a promise that he made. His was a character that commanded admiration, and won for him the strongest ties of friendship.

Most of the years of Mr. Williamson's life were lived in the shadow of the malady that finally overcame him, and many days of his later life were days of suffering and pain. Notwithstanding his physical frailties he asked no quarter from his adversaries, but fought life's battles, and did his work without complaint. He died January 8, 1912, at St. Petersburg, Florida, where he had gone seeking health and recreation.

WASHINGTON.

ALBERT J. TENNANT.

Albert J. Tennant was a self-made man, having endured poverty in its gauntest form and experienced all the vicissitudes common to a life of struggle and self-denial. Of poor but honorable parents, his education was limited to that acquired in the common schools, which he was compelled to abandon before finishing the prescribed course. He became a newsboy, delivering morning and evening the daily papers of Seattle. His earliest ambition was to become a lawyer. When still a youth he was permitted to enter the office of J. T. Ronald to read law.

For three years daily, during his office hours, intervening between the delivery of his morning papers and his departure to deliver his evening papers, he read constantly and studied with the greatest diligence to digest what he read. He was at first employed by the law firm of Ballinger, Ronald & Battle. So useful did he make himself and so indispensable did he become that after one or two years he was admitted into full partnership as a member of the firm of Ballinger, Ronald, Battle & Tennant. His subsequent conduct not only justified the confidence of the old firm but showed his ceaseless appreciation for the promotion.

He was an excellent lawyer. He thought quickly, accurately, and acted with the greatest promptness. His conception of the law was as a rule for the vindication of human rights and the prevention of human wrongs. His practice was according to its highest and noblest ethics. He never countenanced its use as a subterfuge nor permitted it to be used to cloak a fraud or wrong. His judgment even in the most complicated and important matters was most reliable. A splendid counselor, a superb judge of human nature, his presence during a trial made him the most valuable of advisers; a tireless worker, his industry and self-neglect early undermined his health and his weakened system cut him off in the prime of manhood and upon the threshold of a most promising career. His life as lawyer and as citizen is a beautiful exemplification of the opportunities and success with which the profession rewards honesty, industry and patient perseverance.

WEST VIRGINIA.

WESLEY MOLLOHAN.

Wesley Mollohan was born in Braxton County, West Virginia (then Virginia), January 31, 1841, and died, September 25, 1911.

Mr. Mollohan came of sturdy native stock. He was educated at the public schools of Gallipolis, Ohio, and Charleston, West Virginia, and thereafter studied law at Gallipolis in the office of Judge Simeon Nash. Mr. Mollohan was admitted to practise

law at Charleston in 1864, and actively and continuously practised his profession at that place from that time until his death.

His practice was varied and extensive. For many years he was generally recognized as one of the very best equipped and strongest lawyers in the state and in matters pertaining to the complicated system of Virginia and West Virginia land titles, tax sales, forfeitures, and kindred matters, his position was unique. While his reputation, in the minds of the profession and courts generally, may rest chiefly upon his wonderful knowledge of land law and titles, yet that portion of the profession which knew him best and practised with him most frequently recognized that as a trial or appellate lawyer in any branch or department of the profession he was apparently equally at home, equally resourceful and thoroughly prepared.

Mr. Mollohan possessed a singularly modest and unassuming manner, he delighted in the companionship of his fellowman, and appeared never be happier than when discussing the political, historical or legal affairs of his state. Possessing a kindly and lovable nature, the human side of every question appealed to him most strongly.

Mr. Mollohan, while never a candidate for office, took a deep and continuing interest in the political history and affairs of this state and of the nation. He was a delegate to the Democratic National Convention at Chicago in 1884 and also a delegate to the convention at St. Louis in 1888. He was twice tendered an appointment by Governors of West Virginia to a seat upon the Supreme Court of Appeals, but each time declined. He took a deep and earnest interest in his profession, and in everything that tended towards its improvement or advancement. Mr. Mollohan assisted in forming the Bar Association in the city of Charleston, and was its first President. He was a regular attendant at the meetings of the West Virginia State Bar Association and was elected its President at its meeting in Charleston in 1899, serving in that capacity for one year.

Mr. Mollohan in 1872 married Miss Mary E. Donnally in Warren County, Ohio, who survives him, with five daughters.

WISCONSIN.

JOHN J. JENKINS.

John J. Jenkins was born in Weymouth, England, August 20, 1843, and was the oldest of twelve children, eleven boys and one girl. His parents moved to Sauk County, Wisconsin, in 1852 and settled at Baraboo.

At the outbreak of the Civil War, young Jenkins and his father were among the first to enlist in the Union army. They became members of Company A, Sixth Regiment—part of the Iron Brigade—and served until the close of the war. After the war Mr. Jenkins taught school and studied law during his spare hours. The people of his county recognizing his ability, elected him to the office of clerk of the circuit court. He was admitted to the Bar in 1870 and immediately thereafter commenced practice of law in Chippewa Falls, Wisconsin, where he maintained an office until death on June 11, 1912.

He was a member of the State Assembly in 1872 where he served with distinction. He was county judge for several years, resigning from the Bench in 1876 to accept the appointment as attorney-general of Wyoming Territory. He served fourteen years as a member of the Lower House of Congress, retiring in March, 1909. While there he was a member of the governing committee of the District of Columbia and for many years Chairman of the Judiciary Committee of the House.

The strong judicial qualities of Judge Jenkins moved the President soon after the termination of his congressional services to appoint him United States district judge for the Island of Porto Rico. He occupied this position until his health gave way and he was forced to return to his home, in the hope of regaining his strength, and it was there that he died in June, 1912.

Judge Jenkins, in 1866, married Miss Esther Thompson of Oconomowoc.

JOSEPH VERY QUARLES.

Joseph Very Quarles was born at Kenosha, Wisconsin, Dec. 16, 1843. At the age of seventeen he enlisted in the Union army and served during the entire war. After leaving the army he

went to the University of Michigan, and was graduated in 1866, returning to Kenosha, where he studied law in the office of O. S. Head. Upon his admission to the Bar in 1868, he formed a partnership with Mr. Head, under the firm name of Head & Quarles. This partnership terminated with the death of Mr. Head in 1875.

Elected to the Lower House of the Wisconsin legislature of 1878, and to the state Senate of 1880-81, he sprang into prominence, and formed political friendships which lasted throughout his life.

Removing to Racine he formed a partnership with John B. Winslow, which continued until the latter was elected judge in the first circuit. He then formed partnerships in turn with J. R. Dyer and T. W. Spence. Then the firm of Quarles, Spence & Quarles was formed, and the firm moved to Milwaukee in 1888. The next ten years proved Mr. Quarles to be one of the foremost lawyers in the state.

His love for his profession led him for many years to turn a deaf ear to the alluring call to public office, but in the second year of McKinley's administration he became a candidate for the United States Senate, and was elected under circumstances which must have been highly flattering to his pride. He made in that distinguished body an honorable record, and at the conclusion of his term was appointed judge of the United States District Court for the Eastern District of Wisconsin, in which position he served till his death.

Judge Quarles was a man of splendid abilities, of scholarly instincts and attainments, and of high ideals and principles. In his death October 7, 1911, Wisconsin lost one of its most efficient and ablest jurists and statemen.

SUMMARY OF PROCEEDINGS OF STATE BAR ASSOCIATIONS

[All State Bar Associations were requested by the Secretary to submit a summary of proceedings. The Associations which responded favorably to this request appear herein. No report has been received from the other State Bar Associations.]

BAR ASSOCIATION OF ARKANSAS.

The fifteenth annual meeting of the Bar Association of Arkansas was held in Little Rock, June 3 and 4, 1912, and was presided over by the President, Ashley Cockrill.

The annual address was delivered by Stephen S. Gregory, of Chicago, on the subject: "Lord Mansfield."

The President's address was delivered by Mr. Cockrill, upon the subject: "Our Constitution Under the Initiative Amendment."

Judge Jacob Trieber read a paper: "The New Judicial Code."

A large part of the meeting was devoted to a discussion of the questions of "Recall of Judges" and "Recall of Judicial Decisions." The leaders in the debate were: Judge Jos. M. Hill, of Ft. Smith; J. W. Blackwood, Little Rock; Geo. B. Rose, Little Rock; Chas. C. Waters, Little Rock; Chas. C. Reid, Little Rock; and J. B. McDonough, Ft. Smith. At the conclusion of the discussion the following resolution was adopted:

"Be It Resolved, By the Bar Association of Arkansas that we condemn and deplore the agitation in favor of a recall of the judges or a review of their judgments by popular vote, and that individually and as a body we will endeavor to maintain the independence of the judiciary, which we recognize as the supreme safe-guard of our government and the only effective security of our right to life, liberty and the pursuit of happiness."

Legislation was recommended to provide for some legal restraint upon large political campaign expenditures.

GEORGIA BAR ASSOCIATION.

The Georgia Bar Association held its twenty-ninth annual session at Tybee Island, Georgia, May 30 and 31 and June 1, 1912.

Alex. W. Smith, of Atlanta, delivered the President's address, entitled "Signs of the Times."

The annual address was delivered by Caruthers Ewing, of Memphis, Tennessee, on the subject "The Spirit of the Times."

Papers were read by W. R. Hammond, of Atlanta, on "The Evil and Cure of Monopolistic Business Tendency," and by R. C. Alston, of Atlanta, on "A State Within a State in Georgia." "Admission of Women to the Bar in Georgia" was discussed by Henry C. Hammond, of Augusta, Roland Ellis, of Macon, E. R. Black, of Atlanta, and John L. Hopkins, of Atlanta.

After extended debate, the Association recommended for passage by the legislature the following bills: A bill to provide for the taking of verdicts and judgments in default cases at the first term; a bill to authorize oral motions for new trial, on the ground that the verdict is contrary to evidence, immediately after receipt of verdict, same to be heard and determined at once without a brief of the evidence; a bill allowing the state, in criminal cases, more easily to amend indictments; a bill to give the state and the defense an equal number of peremptory challenges in misdemeanor cases and in felonies less than capital; a bill making the minimum punishment of all felonies less than capital felonies one year in the penitentiary, unless the same shall be reduced to misdemeanors as provided by law; a bill providing that persons charged with misdemeanors, who have been bound over by committing courts, shall not have the right to demand indictment, but shall be tried on accusations preferred by the prosecuting officers; a bill providing that jurors over sixty years of age shall not be subject to challenge on account of age; and a bill allowing a person accused of crime to be sworn as a witness in his own behalf. A bill prohibiting reversals by the appellate courts except in cases where enforcement of verdict or judgment complained of would result in substantial injustice was disapproved by the Association.

ILLINOIS STATE BAR ASSOCIATION.

The Illinois State Bar Association held its thirty-sixth annual meeting at the Hotel LaSalle, Chicago, April 26 and 27, 1912. The general subject for discussion at the meeting was law reform, and in order to obtain the views of lawyers from many different states, each State Bar Association in the country was invited to send a delegate or delegates to this meeting. In response to this invitation, twenty-three different states sent representatives, all of whom participated in the discussion of the general subject of reform. The discussion showed that practically all of the different State Bar Associations represented at the meeting were actively engaged in bringing about practical reforms in the administration of the law in their respective states. The coming together of so many distinguished lawyers for the discussion of a subject of such general and vital interest to the profession and to the public at large was both instructive and practical. The entire first day of the meeting was devoted to these discussions. Those who are especially interested in this subject are referred to the 1912 report of the Illinois Bar Association, where these addresses are reported in full.

The President's address was delivered by Horace Kent Tenney, and treated of procedural reform. It deals with the subject from the practical standpoint of a practising lawyer and urges simplification of court procedure, and that the rules of procedure ought to be general in their nature, established by the court and not by the legislature, and that "the ideal system of procedure would be one in which, from the beginning to the end of the lawsuit, both court and counsel would be unconscious that any system existed; and would at each stage of the case take as the next step, not that which was formerly prescribed, but that which common sense, enlightened by special training and experience, would itself suggest as the natural step toward a fair and speedy determination." The President endorsed the report presented to the meeting of the American Bar Association in 1910 by the committee "To suggest remedies and prevent the delay and unnecessary cost of litigation," and added that that report presents a fair and complete statement of the principles upon which procedure should rest and

by which courts should be guided in formulating rules for that purpose. The President said further:

"Each State Bar Association should take upon itself the task of securing in its own state an efficient system of procedure with simplicity as its basis. The first step towards this end is to establish the principle that formulating a system of procedure is a judicial rather than a legislative work. When once this matter is transferred from the legislatures to the courts, the greater part of the reform is well nigh accomplished. For while the courts would then have the power to re-create by rules all the complex evils of both the codes and the common law, we know that this will not happen, but that the Bench and the Bar will unite in framing a system which will subordinate form to right and method to merit. That the system may in its details differ in different states will produce no greater harm than now results from the differences between courts of different states upon the same question of substantive law.

"We should work for such a uniform system of procedure, formulated by the Supreme Court, for the federal courts, both as an end desirable in itself and as an effective means toward securing similar reforms in the states."

The evening session of the first day of the meeting was devoted entirely to the discussion of the questions of "The Recall of Judges" and "The Recall of Judicial Decisions." Interest in this subject was intense. On the general subject of Reform in Procedure papers were read as follows: Henry M. Armistead, Little Rock, Ark.; Horace G. Lunt, Denver, Col.; Clarence R. Wilson, Washington, D. C.; William A. Blount, Pensacola, Fla.; Stuart Mackibbin, South Bend, Ind.; Edmund F. Trabue, Louisville, Ky.; W. C. Wait, Boston, Mass.; Victor M. Gore, Benton Harbor, Mich.; Edward Q. Keasbey, Newark, N. J.; Charles W. Farnham, St. Paul, Minn.; Alfred G. Ellick, Omaha, Neb.; Ledyard P. Hale, Albany, N. Y.; John G. Schaich, Kansas City, Mo.; John Knauf, Jamestown, N. Dak.; John E. Green, Minot, N. Dak.; Allen Andrews, Hamilton, O.; R. A. Kleinschmidt, Oklahoma City, Okla.; Albert W. Biggs, Memphis, Tenn.; Warren R. Austin, St. Albans, Vt.; George Bryan, Richmond, Va.; George E. Price, Charleston, W. Va.; H. H. Field, of Chicago (for State of Wash.); B. R. Goggins, Wis.

A summing up of all the discussions was made by John H. Wigmore and Charles S. Cutting, both of Chicago.

The meeting closed with the annual banquet at the Hotel La-Salle at which six hundred covers were laid.

IOWA STATE BAR ASSOCIATION.

The eighteenth annual meeting of the Iowa State Bar Association was held at Cedar Rapids, Iowa, June 27 and 28, 1912.

The attendance at the meeting was large and a greater number were present at the banquet than ever before in the history of the Association.

The President's address was delivered by Senator Charles G. Saunders, of Council Bluffs, his subject being "The Judicial Recall." Hon. William Renwick Riddell, justice of the King's Bench Division of the High Court of Justice for Ontario, delivered the annual address, the subject being, "A Comparison of the Constitutions of the United States and Canada." Other papers read were as follows: A. J. Small, Des Moines, "The State Law Library"; Senator William Berry, Indianola, "The Administration of the Indeterminate Sentence and Reformatory Law"; J. L. Parrish, Des Moines, "Some Railroad Problems."

At the banquet, which was held at the Montrose Hotel, responses to the following toasts were given: E. B. Evans, Des Moines, "Back Numbers"; Robert Healy, Fort Dodge, "Respect for Authority"; John G. Bowman, President of the State University of Iowa, "The Spirit of the College of Law"; Major John F. Lacey, Oskaloosa, "The Early Bench and Bar of Iowa"; Justice Riddell, Toronto, Canada, "American Courts as a Canadian Sees Them."

The following officers were elected for 1912-13: President, Justice H. E. Deemer, Red Oak; Vice-President, Major John F. Lacey, Oskaloosa; Secretary, H. C. Horack, Iowa City; Librarian, A. J. Small, Des Moines; Treasurer, Frank T. Nash, Oskaloosa.

The next meeting of the Association was fixed at Sioux City, Iowa, June 26 and 27, 1913.

BAR ASSOCIATION OF THE STATE OF KANSAS.

The twenty-ninth annual meeting of the Bar Association of the State of Kansas was held at Topeka January 30 and 31, 1912.

The opening address was delivered by President William Easton Hutchinson, Garden City, subject, "Judicial Innovations of 1911."

The annual address was delivered by Harry B. Hutchins, President of the Ann Arbor Law School, subject, "Respect for the Law."

There was considerable committee work, but several important matters were carried over to the next meeting. No special recommendations were made to the legislature.

Taken altogether it was one of the most successful meetings the Association has ever had.

Other addresses were: "The Status of State Control of Public Utilities," by Robert Stone of Topeka; "Human Rights vs. Property Rights," by J. W. Gleed, Topeka; "Will a Cause for Damages Lie Against the Board of Regents of the State University, for Injuries Sustained by Reason of Negligence of its Employees?" by Arthur Herman Fast, Baldwin, senior student, University Law School; "The Legislative Flood," by F. Dumont Smith, Hutchinson; "The Law and the People," by William Osmond, Great Bend; "Public Officials and the Public," by Lee Bond, Leavenworth; "Government by Jury," by H. C. Sluss, Wichita.

MARYLAND STATE BAR ASSOCIATION.

The seventeenth annual meeting of the Maryland State Bar Association was held at the Cape May Hotel, Cape May, N. J., July 1, 2 and 3, 1912. The President's address was delivered by Judge James A. Pearce, entitled "Some Personal Recollections, and Some Traditions, of Some of the Eminent Lawyers who have Adorned the Bar and Bench of this State in the Past, and now Deceased."

Addresses were delivered by W. Cabell Bruce, of Baltimore, entitled "Recall of Judges and Judicial Decisions"; by Francis Neal Parke, of Westminster, entitled "Justinian Code"; by

Judge N. Charles Burke, of the Court of Appeals of Maryland, entitled "Progressive Democracy"; by Judge Robert T. Daniel, of Georgia, entitled "Triumph of the Law"; by J. Walter Lord, of Baltimore, entitled "Employers' Liability and Workmen's Compensation Laws"; by Frank B. Kellogg, of the Minnesota Bar, entitled "The Judicial Recall."

A resolution was adopted in opposition to the recall of judges and the recall of judicial decisions.

The following officers were elected for the year 1912-13: President, Judge A. Hunter Boyd, of Cumberland; Secretary, James W. Chapman, Jr., of Baltimore; Treasurer, R. Bennett Darnall, of Baltimore.

MASSACHUSETTS BAR ASSOCIATION.

The second annual meeting of the Massachusetts Bar Association was held in Boston December 28, 1911.

The President, Alfred Hemenway, delivered the opening address. He spoke of the meeting of the American Bar Association which was held in Boston in 1911, of the work of that association in promoting uniformity of legislation throughout the union, and of the province of a State Bar Association in that respect.

The Executive Committee reported on the need of another federal district judge for the District of Massachusetts and a resolution was adopted favoring an act providing for such an additional judge.

The Committee on Legal Education reported that they favored higher standards of education and that they had appeared before the legislature in opposition to three bills which were introduced for the purpose of preventing the raising of the standards of general education for admission to the Bar.

The Committee on Legislation reported upon the Workingmen's Compensation Act passed by the Massachusetts legislature in 1911, and they recommended a number of amendments. A long debate followed but action on the matter was indefinitely postponed.

The annual address was delivered by P. Tecumseh Sherman, of the New York Bar. His subject was "Workingmen's Compensation Acts."

MICHIGAN STATE BAR ASSOCIATION.

The Michigan State Bar Association held its twenty-second annual meeting in Saginaw September 4 and 5, 1912. President A. B. Eldredge, of Marquette, delivered his address treating of the relation of the state Association, and its members, to the selection of the judiciary and to the remedying of procedure in the courts. Victor M. Gore, of Benton Harbor, submitted a report of his attendance, as a delegate, upon the conference of the Illinois Bar Association, which conference discussed, generally, the subject of procedural reform. Judge Chester L. Collins, of Bay City, read a paper entitled "Civil Procedure in Courts with Suggestions for its Improvement."

The annual address was delivered by Orrin N. Carter, one of the Justices of the Illinois Supreme Court, on "The People and the Courts." Henry M. Bates, dean of the law department of the University of Michigan, delivered an address on "Recall of Judges and Judicial Decisions." Hugh P. Stewart read a paper entitled "Home Rule Law in Michigan."

The Committee on Legislation and Law Reform, the Committee on Grievances, the Committee on Membership and the Historical Committee made their usual reports. The Committee on Legal Education and Admission to the Bar again urged that the Association use its efforts to secure legislation requiring graduates of the University of Michigan and the Detroit College of Law to pass an examination before the State Board of Law Examiners, before being allowed to practise.

Claudius B. Grant, a former Justice of the Supreme Court of Michigan; Robert M. Montgomery, presiding judge of the Court of Custom Appeals, Washington, D. C., and Orrin N. Carter, Justice of the Supreme Court of Illinois, were made honorary members of the Association.

The annual dinner was served at the East Saginaw Club on the evening of September 4.

MINNESOTA STATE BAR ASSOCIATION.

The twelfth annual meeting of the Minnesota State Bar Association was held in the city of Minneapolis on August 19, 20 and 21, 1912.

The President's address was delivered by Cordenio A. Severance of St. Paul, being an eloquent, exhaustive and original discourse on present conditions in the practice and administration of the law.

The annual address was delivered by Seth Low the President of the American Civic Federation, who, by request, chose for his subject "Employees' Compensation for Injuries."

Committee reports were submitted, the most important being a report on the subject of employees' compensation, accompanied by a proposed code, from a special committee which was appointed for the purpose and retained until such time as final action be secured in the legislature of the state.

Mr. John Jenswold, Jr., of Duluth, spoke in favor of the "Recall of Judges" and Hon. Lorin Cray in opposition to the doctrine. A vote was taken at the meeting on this subject and also on the subject of the "Recall of Judicial Decisions." The opposition to each doctrine prevailed by a very large majority.

An evening was given over to the discussion of "Employees' Compensation," led on behalf of employers by Mr. George M. Gillette of Minneapolis, and on behalf of employees by Mr. W. E. McEwen of Duluth, with Mr. Hugh V. Mercer of Minneapolis discussing the legal aspect of the matter.

MISSISSIPPI STATE BAR ASSOCIATION.

The seventh annual meeting of the Mississippi State Bar Association was held at Jackson, Mississippi, May 8, 9 and 10, 1912.

In his address President A. F. Fox called the attention of the Association to noteworthy changes in the statute laws, state and national.

The annual address was delivered by Judge Charles B. Howry, of the Court of Claims, Washington, D. C., his subject being "The Government and the Citizen Considered with their Relation to their Obligations, Rights and Remedies."

Among important actions taken by the Association were, the adoption of the American Bar Association's Code of Ethics, requesting that the subject of Professional Ethics be added by the legislature to the list of subjects upon which applicants for admission to the Bar are examined, and the appointment of a committee to establish a law journal to be published by the Association, if in the judgment of the committee the publication of such a journal is practicable.

Papers were read by J. S. Sexton, of Hazelhurst, on "The Judicial Code," and by Clayton D. Potter, of Jackson, on "Equalization of Taxation."

The eighth annual meeting of the Association will be held at Greenville, Mississippi, on the first Tuesday after the first Monday in May, 1913.

MISSOURI BAR ASSOCIATION.

The thirtieth annual session of the Missouri Bar Association convened in the United States District Court Room in the city of St. Louis Thursday, September 26, 1912, with Morton Jourdan, President, presiding.

The annual address of the Association was made by the President, in accordance with the By-laws. The address related to matters of special interest to lawyers of the State of Missouri; discussed proposed amendments to the constitution which are to be submitted to a vote of the people of the state at the November, 1912, election and reviewed the important laws passed by the legislatures of the different states of the union.

The most important matter which came before the session was the report of a Special and Standing Committee on "Judicial Administration and Remedial Procedure." The report was, after considerable discussion, referred to a special committee of five to further investigate and report its conclusions to the next session of the Association. Among the changes in procedure recommended by the committee to abolish delay in judicial procedure were these, viz:

Providing that persons in whom a right to relief is alleged to exist in the alternative may join as plaintiffs in the same action.

Providing for the prompt transfer to the proper court or venue all causes or proceedings brought in or taken to the wrong court or venue.

Providing that writs and orders of publication be returnable on a day certain instead of at terms of court and binding the defendant to appear and plead within set times thereafter.

Providing for the repeal of certain statutes regulating practice and enacting in lieu thereof new sections.

Providing that the practice, pleadings and forms and modes of procedure in civil actions in courts of record shall be in accordance with rules prescribed by the Supreme Court and providing for a liberal construction thereof.

Providing that the trial judge in civil cases may comment on the evidence by instruction.

Providing a prompt and efficient remedy for the construction of deeds, wills, contracts and other written instruments, and the determination of the rights of persons interested therein, such construction and determination to be had in a suit instituted in the circuit court.

Providing a prompt and efficient remedy for determining the existence, force and validity and construction of any ordinance, statute or provision of the state constitution or amendments thereto, such construction and determination to be had in a suit to be instituted in the circuit court.

Providing for limiting the right to appeal to cases where the amount involved is more than \$500; abolishing bills of exceptions and prescribing rules for the manner in which Appellate courts shall be guided in hearing and determining appeals.

The Committee on Jurisprudence and Law Reform was authorized to cooperate with a commission appointed by the Governor of the state to recommend to the legislature an act providing for "Workmen's Compensation or Employers' Liability."

Hampton L. Carson, of the Philadelphia Bar, read a paper on "The Relation of the Judiciary to Unconstitutional Legislation." Albert W. Biggs, of Memphis, Tenn., President of the Tennessee State Bar Association, read a paper on the "Unrest as to the Administration of Law." Roscoe Pound, of Harvard University, read a paper on "Social Justice and Legal Justice." William M. Thornton, of the University of Virginia, read a paper on "Who was Thomas Jefferson," and Judge R. N. Wanamaker, of the Ohio Bar, on the "Recall of Judges."

On Friday night, September 27, 1912, the annual dinner of the Association was given at the Planters' Hotel in St. Louis. Toasts were responded to by Judge John F. Philips, Governor Herbert S. Hadley and Frederick W. Lehmann.

NEBRASKA STATE BAR ASSOCIATION.

The twelfth annual meeting of the Nebraska State Bar Association was held in the city of Lincoln December 28 and 29, 1911. The President's address was delivered by Benjamin F. Good. The annual address was delivered by John H. Atwood, of Kansas City, Missouri, on the subject of "The State as a Rate Maker." The Committee on Judiciary recommended that the number of peremptory challenges allowed the defendant in criminal actions be reduced, and that the state be allowed an equal number with the defendant; that the office of jury commissioner be created in the larger counties of the state, which shall be filled by appointment by a majority vote of the judges of the district court for such county, whose duties would consist of selecting jurors qualified for jury service. The committee also recommended that an agreement by ten out of twelve of the jurors in civil actions constitute a verdict. These recommendations were endorsed by the Association. Paul L. Martin, dean of the Creighton Law School, read an address entitled "The Trained Lawyer," and Jesse L. Root, Justice of the Supreme Court, read an address entitled "The Other Side of the Shield." Roscoe Pound was recommended to the President of the United States for appointment as Justice of the Supreme Court of the United States to fill the vacancy caused by the death of Justice John M. Harlan.

NEW JERSEY STATE BAR ASSOCIATION.

The fourteenth annual meeting of the New Jersey State Bar Association was held at the Hotel Chelsea, in Atlantic City, June 14 and 15, 1912.

Mahlon Pitney, Associate Justice of the United States Supreme Court; Edwin Robert Walker, Chancellor of New Jersey,

and the retiring President of the Association, William M. Johnson, delivered addresses at the annual dinner on the evening of the 14th.

The session on June 15 was devoted to the discussion of the new "Practice Act" passed by the legislature during the session of 1912. This act was approved by the Bar Association at a special meeting held in Trenton on February 10.

At the annual meeting Maximilian T. Rosenberg, Chairman of the Committee on Law Reform presented a report recommending a revision of the "Municipal Lien Act," "Married Women's Act" and the act regarding the "Publication of the Law and Equity Reports."

Horace F. Nixon, Chairman of the Committee to Secure a Reduction of the Rates for Legal Advertising presented an interesting report showing the labors of the committee to bring about this result and the opposition with which their efforts were met.

Supreme Court Justice Parker, Ex-Supreme Court Justice Collins, and Charles H. Hartshorne, addressed the Association with regard to the new "Practice Act," its operation and effect. The matter was further discussed by Chancellor Walker, Edward Q. Keasbey and Maximilian T. Rosenberg.

NEW YORK STATE BAR ASSOCIATION.

The thirty-fifth annual meeting of the New York State Bar Association was held in the city of New York, January 19 and 20, 1912.

Elihu Root, of New York, President of the Association, delivered an address on "Judicial Decisions and Public Feeling."

The annual address was delivered by Philander C. Knox, Secretary of State of the United States, on "The Monroe Doctrine and some Incidental Obligations in the Zone of the Caribbean."

The reports received from the several standing and special committees were of unusual interest and importance.

The "Reform of Procedure in the State of New York" was the principal topic discussed, and the subject was presented for

consideration under a most comprehensive and systematic plan. Prior to the meeting various members of the Association were asked to prepare papers on branches of the civil practice with which they were especially familiar. The Association also communicated with the President of each State Bar Association in the United States asking that he delegate some member of the Bar of his state to prepare a paper giving an epitome of the practice in his state. Likewise, the surrogate of each county in the State of New York was requested to make suggestions touching the practice in surrogate's court.

In accordance with this plan, the following papers were read by their authors at the meeting, under the general head of "Reform of Procedure in the State of New York":

"The Commencement of Actions and other Proceedings up to Trial," by C. Andrade, Jr., of New York; "Preparation for Trial and Trial Practice," by George Gordon Battle and Joseph M. Proskauer, of New York; "Judgments," by Neal Dow Becker, of New York; "Procedure on Appeal," by Everett P. Wheeler, of New York; "Satisfaction of Judgment and Supplementary Proceedings," by Henry A. Forster, of New York; "Revision of the Code Relative to Special Actions and Special Proceedings," by J. Newton Fiero, of Albany; "Practice in Surrogate's Court," by John P. Cohalan and Robert Ludlow Fowler, of New York.

In addition to these Simeon E. Baldwin, of Connecticut, made an address on "How Civil Procedure was Simplified in Connecticut," and William Renwick Riddell, Justice King's Bench Division, H. C. J., Ontario, delivered an address on "Law and Practice in Ontario."

Twenty-seven papers were submitted on the "Practice and Procedure in Foreign States" and communications were received from the surrogates of twenty-three counties in New York with reference to the simplification of the practice in surrogate's court.

These addresses, papers and communications were submitted to the Board of Statutory Consolidation composed of Adolph J. Rodenbeck, Rochester, Chairman; William B. Hornblower, New

York; John G. Milburn, New York; Adelbert Moot, Buffalo and Charles A. Collin, New York; which board is authorized by an act of the legislature of 1912 to present to the legislature of 1913 a plan for the classification, consolidation and simplification of the civil practice in New York.

The annual dinner was held on the evening of January 20 at the Waldorf-Astoria at which over a thousand members and guests attended. President Taft was the guest of the Association on this occasion and delivered an address, 5000 copies of which, together with President Root's address, in pamphlet form, were sent to members of the Bar throughout the state and to all members of the American Bar Association.

The next meeting of the Association will be held at Utica, in January, 1913.

NORTH DAKOTA BAR ASSOCIATION.

The North Dakota Bar Association held its annual meeting at Jamestown, September 3 and 4. The following officers were elected for the ensuing year:

President, O. G. Divet, Wahpeton; Vice-President, John Knauff, Jamestown; Secretary, W. H. Stutsman, Mandan.

President John E. Greene of Minot delivered the President's address.

The programme included an interesting debate on the "Initiative, Referendum and Recall." John Carmody spoke in the affirmative and N. C. Young in the negative.

Stephen S. Gregory delivered the annual address on "Roger Brooke Taney, Fifth Chief Justice of the United States."

Wordan was selected for the place of the next annual meeting September 2 and 3, 1913.

OHIO STATE BAR ASSOCIATION.

The thirty-third annual session of the Ohio State Bar Association was held at Cedar Point, Ohio, July 9, 10 and 11, 1912, the opening session being called to order by the Chairman of the Executive Committee, Harlan F. Burket, of Findlay.

The President of the Association, Frederick L. Taft, of Cleveland, delivered his address, treating of the various amendments to the constitution proposed by the Constitutional Convention of 1912.

The feature of the session was the annual address, delivered by Frank B. Kellogg, of St. Paul, Minnesota, on the subject of "Judicial Recall."

The most important matters considered at the session were various proposed amendments to the constitution affecting the courts as embodied in the report of the Committee on Judicial Administration and Legal Reform. These included changes in the judicial system, limiting the jurisdiction of the Supreme Court; establishing, in the place of the present circuit courts, Courts of Appeals having final jurisdiction except in cases involving constitutional questions, felonies, cases of which it has original jurisdiction, and cases of public or great general interest in which the Supreme Court may direct certification of record to it; authorizing laws providing for the rendering of verdicts in civil cases by the concurrence of not less than three-fourths of the jury; providing for at least one Common Pleas judge for each county, with authority in small counties to combine Common Pleas and probate courts; limiting power to punish for contempt and issue injunctions; removing the limitation on amount recoverable as damages for death in negligence cases; authorizing depositions by the state in criminal cases, and by the accused, and permitting comment upon failure of accused to testify; authorizing laws regulating expert testimony in criminal trials; authorizing laws providing for the removal of officers, including judges; suits against the state; providing a system of registering and warranting land titles; and abolishing justices of the peace in cities having municipal courts.

The various proposals were discussed at length, and, with the exception of those limiting the power to punish for contempt and issue injunctions, and authorizing depositions in criminal cases and permitting comment upon failure of the accused to testify, were recommended for adoption by the people.

Reports to the Association were submitted by Allen Andrews, of Hamilton, and Louis H. Winch, of Cleveland, delegates, respectively, to the Illinois and New York Bar Associations.

Memorial addresses were delivered as follows: on The Life of Hon. James L. Price, former Judge of the Supreme Court, by James W. Halfhill, Esq., of Lima; on The Life of Robert D. Marshall, Esq., by John N. Van Deman, of Dayton.

SOUTH DAKOTA BAR ASSOCIATION.

The thirteenth annual meeting of the South Dakota Bar Association was held at Aberdeen, South Dakota, January 4 and 5, 1912.

The President's address was delivered by Norman T. Mason, of Deadwood. It was devoted chiefly to a consideration of some of the legislation which in the opinion of the President should be enacted at the 1913 session of the legislature.

The annual address was delivered by Charles A. Willard, of Minneapolis, one of the district judges of the United States for the District of Minnesota, and a former member of the Supreme Court of the Philippine Islands, upon "The Philippine Islands, their Jurisprudence and Judicial System." Papers were read before the Association by A. H. Orvis, of Yankton, on "Some Proposed Changes in Laws Relating to Taxation," and by E. T. Taubman, of Aberdeen, upon "The Abolition of the County Court."

TEXAS BAR ASSOCIATION.

The thirty-first annual meeting of the Texas Bar Association was held in the city of Galveston, July 2, 3 and 4, 1912.

The President of the Association, R. E. L. Saner, of Dallas, delivered his address in which he recommended that the Association should establish at the University of Texas a scholarship or loan fund of \$2500 to be known as "The Texas Bar Association Scholarship." A resolution was offered for this purpose, and the matter was referred to the next annual meeting in order to give ample notice to the membership. He also recommended that a committee of five be appointed to place before the State Convention

and the next legislature, the Wisconsin plan of a "legislative reference department," and a permanent statute revisor, and a thorough revision of the whole statutes of Texas.

Albert W. Biggs, of Memphis, Tenn., delivered the annual address upon "The Unrest as to the Administration of Law."

The following papers were also read: "The Recall of Judges," by Thos. H. Franklin, of San Antonio; "Incorporation of Trading Companies in Interstate Commerce by a Federal Charter, and the Consequences which Would Flow Therefrom," by Wm. H. Wilson, of Houston; "Breen vs. Morehead, 136 S. W. 1047," by Maco Stewart of Galveston; "Patent Laws," by John M. Spellman, of Chicago and Dallas.

The Chairmen of the various committees read their reports to the Association. Lauch McLaurin, Chairman of the Committee on Legal Education and Admission to the Bar recommended that the present plan of eight committees in different portions of the state preparing questions and passing on applications, be abolished, and one committee be appointed to prepare all questions, and examinations be held at the same time in different places in the state under the same questions. This will be presented to the next legislature.

The Galveston Bar entertained with an elaborate banquet in honor of the Association at the Galvez Hotel, and J. W. Terry, of Galveston, presided as toastmaster.

UTAH STATE BAR ASSOCIATION.

The second semi-annual meeting of the Utah State Bar Association was held at the Commercial Club, Salt Lake City, Utah, October 7, 1911. The topic, "Shall Examination of Candidates for Admission to the Bar be Conducted by Written Questions and Answers," was discussed. The Association unanimously recommended to the committee appointed by the Supreme Court, having in charge the examination of candidates for admission to the Bar, that such examinations be conducted by means of written questions and answers, supplemented by such oral examination as the committee shall see fit to make. Addresses were made as follows: "Some Problems in the North," by Mr.

Horace G. Nebeker; "The University Law School," by E. C. Ashton; "Policemen, Other Vagrants and Floaters," by W. S. Dalton; and "The Case Book System in the Law School," by Justice D. N. Straup.

The fourteenth annual meeting of the Association was held August 17, 1912, at the Hermitage, Ogden Canyon, Utah. The President's address was delivered by President E. B. Critchlow and dealt chiefly with the simplification of court procedure as an aid to the speedy and just determination of legal controversies. A motion was unanimously carried providing that the suggestions contained in the President's address be referred to the Committee on the State of the Law, with instructions to report to the Association at the January meeting, 1913.

W. D. Riter read a paper entitled "Westminster Hall, a Retrospect." W. I. Snyder read a paper entitled "Some Grievances of Lawyers—The Unnecessary Length of Judicial Opinions." A discussion was then had on the topic, "The Recall of Judges and Judicial Decisions." E. A. Rogers led the discussion in favor of the recall, and Mathonihah Thomas led the discussion in opposition. Great interest was manifested in the topic. The time for general discussion was so short that it was impossible to secure a final expression of opinion of the Association.

E. B. Critchlow, C. A. Badger and W. D. Riter were elected delegates to the meeting of the American Bar Association. Officers of the Association were elected at this meeting.

VIRGINIA STATE BAR ASSOCIATION.

The Virginia State Bar Association held its twenty-fourth annual meeting at the Hotel Chamberlin, at Old Point Comfort, Virginia, August 6 and 8, 1912, with the second largest attendance in its history, there being one hundred and eighty members present, together with a large number of ladies.

The President's address was delivered by J. F. Bullitt, President, of Big Stone Gap, Virginia, whose subject was "The Present Status of the Trust Question." The speaker differentiated between large combinations of capital which were used for the benefit of the general public in reducing the price

of transportation and of commodities, and those which were used for improper purposes and primarily only for the benefit of the owners.

The annual address was delivered by Judge Martin A. Knapp, President of the United States Commerce Court of Washington, D. C. The title of his address was "Transportation and Combination." This address gave a most interesting history of the growth of transportation facilities from the earliest times, and was an argument in favor of the necessity for large combination of capital and a close relationship between all the various transportation facilities, for the benefit of the general public.

The action of the President was approved in the appointment of a committee in vacation, to raise a fund for a proper memorial to Judge Thornton L. Massie, the presiding judge, and Mr. W. M. Foster, the commonwealth attorney of the circuit court of Carroll County, who sacrificed their lives to the performance of their duty in the deplorable tragedy at Hillsville, Virginia, in March, 1912.

Favorable action was taken upon the following measures:

1. The Appointment of an Additional United States Circuit Judge for this Circuit; (2) A Revision of the State Code; (3) Reduction of the Cost of Appeals; (4) Reform of Judicial Procedure.

Papers were read by the following members of the Association: James E. Heath, of Norfolk, Virginia, whose paper was entitled "Some Observations on the American Doctrine of Judicial Review." Fred Harper, of Lynchburg, Virginia, whose paper was entitled "Constitutional Amendment in Virginia." E. Hilton Jackson, of Washington, D. C., whose paper was entitled "Is Virginia Entitled to Compensation for the Cession of the Northwest Territory to the National Government?"

LIST OF STATE BAR ASSOCIATIONS

NOTE.—This list has been compiled by the Secretary of the American Bar Association from replies to circulars sent out. Where replies to the circulars have not been received, and the officers for 1912-13 are not known, the officers for former years are given.

Local (County and City) Bar Associations have been omitted. For information concerning them, see A. B. A. Report (1911) page 577 *et seq.*

| NAME. | PRESIDENT. | SECRETARY. |
|--|------------------------------------|---------------------------------------|
| Alabama State Bar Association. | Frank S. White, Birmingham. | Alexander Troy, Montgomery. |
| Arizona Bar Association. | H. B. Wilkinson, Phoenix. | Paul Burks, Prescott. |
| Bar Association of Arkansas. | Ashley Cockrill, Little Rock. | Roscoe R. Lynn, Little Rock. |
| California Bar Association. | Lynn Helm, Los Angeles. | T. W. Robinson, Los Angeles. |
| Colorado Bar Association. | Harry N. Haynes, Greeley. | William H. Wadley, Denver. |
| State Bar Association of Connecticut. | Hadlai A. Hull, New London. | James E. Wheeler, New Haven. |
| Delaware State Bar Association. | Benjamin Nields, Wilmington. | T. Bayard Heisel, Wilmington. |
| Bar Association of the District of Columbia. | Edward H. Thomas, Washington. | H. Prescott Gately, Washington. |
| Florida State Bar Association. | George C. Bedell, Jacksonville. | George C. Gibbs, Jacksonville. |
| Georgia Bar Association. | Andrew J. Cobb, Athens. | Orville A. Park, Macon. |
| Bar Association of the Hawaiian Islands. | David L. Withington, Honolulu. | Lyle A. Dickey, Honolulu. |
| Idaho State Bar Association. | Frank Martin, Boise. | Benjamin S. Crow, Boise. |
| Illinois State Bar Association. | Harry Higbee, Pittsfield. | John F. Voigt, Mattoon. |
| State Bar Association of Indiana. | Frank E. Gavin, Indianapolis. | George H. Batchelor, Indianapolis. |
| Iowa State Bar Association. | Horace E. Deemer, Red Oak. | H. C. Horack, Iowa City. |
| Bar Association of the State of Kansas. | J. D. McFarland, Topeka. | D. A. Valentine, Topeka. |

| NAME. | PRESIDENT. | SECRETARY. |
|--|--------------------------------------|-------------------------------------|
| Kentucky State Bar Association. | John B. Baskin, Louisville. | R. A. McDowell, Louisville. |
| Louisiana Bar Association. | E. H. Randolph, Shreveport. | Charles A. Duchamp, New Orleans. |
| Maine State Bar Association. | O. F. Fellows, Bangor. | Norman L. Bassett, Augusta. |
| Maryland State Bar Association. | A. Hunter Boyd, Cumberland. | J. W. Chapman, Jr., Baltimore. |
| Massachusetts Bar Association. | Charles W. Clifford, New Bedford. | Robert Homans, Boston. |
| Michigan State Bar Association. | Rollin H. Person, Lansing. | Harry A. Silsbee, Lansing. |
| Minnesota State Bar Association. | C. A. Severance, St. Paul. | Charles W. Farnham, St. Paul. |
| Mississippi State Bar Association. | R. W. Miller, Hazlehurst. | Sydney Smith, Jackson. |
| Missouri Bar Association. | Morton Jourdan, St. Louis. | John G. Schaich, Kansas City. |
| Montana Bar Association. | James A. Walsh, Helena. | Charles F. Word, Helena. |
| Nebraska State Bar Association. | W. A. Redick, Omaha. | Alfred G. Ellick, Omaha. |
| Nevada Bar Association. | Hugh Henry Brown, Tonopah. | Robert Richards, Reno. |
| Bar Association of the State of New Hampshire. | Frank N. Parsons, Franklin. | Arthur H. Chase, Concord. |
| New Jersey State Bar Association. | Halsay M. Barrett, Newark. | William J. Kraft, Camden. |
| New Mexico Bar Association. | W. B. Wolton, Silver City. | Nellie C. Brewer, Albuquerque. |
| New York State Bar Association. | William Nottingham, Syracuse. | F. E. Wadhams, Albany. |
| North Carolina Bar Association. | James S. Manning, Durham. | Thomas W. Davis, Wilmington. |
| Bar Association of North Dakota. | A. G. Divet, Wahpeton. | W. H. Stutsman, Mandan. |
| Ohio State Bar Association. | Frederick L. Taft, Cleveland. | G. H. Stewart, Jr., Columbus. |
| Oklahoma State Bar Association. | John H. Burford, Guthrie. | Clinton O. Bunn, Oklahoma City. |
| Oregon Bar Association. | Wirt Minor, Portland. | Jerry Bronaugh, Portland. |
| Pennsylvania Bar Association. | George B. Orlady, Huntingdon. | William H. Staake, Philadelphia. |
| The Rhode Island Bar Association | Albert A. Baker, Providence. | Howard B. Gorham, Providence. |

LIST OF STATE BAR ASSOCIATIONS.

| NAME. | PRESIDENT. | SECRETARY. |
|-------------------------------------|-------------------------------------|-----------------------------------|
| South Carolina Bar Association. | D. S. Henderson, Aiken. | Edward L. Craig, Columbia. |
| South Dakota Bar Association. | James Brown, Chamberlain. | Jno. H. Voorhees, Sioux Falls. |
| Bar Association of Tennessee. | Albert W. Biggs, Memphis. | Chas. H. Smith, Knoxville. |
| Texas Bar Association. | John T. Duncan, La Grange. | J. B. Cave, Austin. |
| State Bar Association of Utah. | H. H. Henderson, Ogden. | C. A. Badger, Salt Lake City. |
| Vermont Bar Association. | Rufus E. Brown, Burlington. | John H. Mimms, Burlington. |
| Virginia State Bar Association. | Wm. Minor Lile, Charlottesville. | John B. Minor, Richmond. |
| Washington State Bar Association. | W. T. Dovell, Seattle. | C. Will Shaffer, Olympia. |
| West Virginia Bar Association. | Wm. Gordon Mathews, Charleston. | Charles McCamie, Wheeling. |
| State Bar Association of Wisconsin. | John M. Olin, Madison. | Adolph Kanneberg, Milwaukee. |

MEMORANDUM OF SUBJECTS REFERRED TO COMMITTEES

EXECUTIVE COMMITTEE.

To amend Art. III of the Constitution so as to include among committees enumerated, one on Professional Ethics. Page 61.

To amend Art. II By-Laws, Sub.-Div. (f). Page 61.

To amend By-Laws by adding at end of Art. VIII statement of the duties of Committee on Professional Ethics. Page 61.

To maintain a permanent business office of the American Bar Association in Chicago. Page 61.

To adopt suitable badge or emblem for purposes of annual meeting. Page 62.

To arrange for reception to members on first day of annual meeting. Page 69.

STANDING COMMITTEES.

Judicial Administration and Remedial Procedure

To revise Sec. 1033 of the Revised Statutes of the United States, prepare proper bill to present to Congress, etc. Page 16.

Jurisprudence and Law Reform.

To urge the passage of appropriate legislation for the protection of the accused in criminal cases, and to regulate the admission of evidence of confessions obtained from the accused. Page 33.

Upon creation and removal of United States judges and to abolish life tenure of office. Page 56.

686 MEMORANDUM OF SUBJECTS REFERRED TO COMMITTEES.

Special Committee on Compensation to Federal Judiciary.

To increase salaries of Federal Judges. Page 36.

Special Committee on Drafting of Legislation.

To consider means of providing Legislatures with expert assistance in formulation of legislation. Page 63.

Special Committee on Uniform Judicial Procedure.

To prepare a complete uniform system of law pleading in the federal and state courts. Pages 35, 434.

ANNUAL ADDRESSES

| YEAR. | NAME. | SUBJECT. |
|-------|---|---|
| 1879. | EDWARD J. PHELPS..... | John Marshall. |
| 1880. | CORTLANDT PARKER | Alexander Hamilton and William Paterson. |
| 1881. | CLARKSON N. POTTER..... | Roger Brooke Taney. |
| 1882. | ALEXANDER R. LAWTON..... | James Lewis Petigru and Hugh Swinton Legaré. |
| 1883. | JOHN W. STEVENSON..... | James Madison. |
| 1884. | JOHN F. DILLON..... | American Institutions and Laws. |
| 1885. | GEORGE W. BIDDLE..... | An Inquiry into the Proper Mode of Trial. |
| 1886. | THOMAS J. SEMMES..... | The Civil Law and Codification. |
| 1887. | HENRY HITCHCOCK..... | General Corporation Laws. |
| 1888. | GEORGE HOADLY | Codification. |
| 1889. | SIMEON E. BALDWIN..... | The Centenary of Modern Government. |
| 1890. | JAMES C. CARTER..... | The Ideal and the Actual in the Law. |
| 1891. | ALFRED RUSSELL | Avoidable Causes of Delay and Uncertainty in our Courts. |
| 1892. | J. RANDOLPH TUCKER..... | British Institutions and American Constitutions. |
| 1893. | HENRY B. BROWN..... | The Distribution of Property. |
| 1894. | MOORFIELD STOREY | The American Legislature. |
| 1895. | WILLIAM H. TAFT..... | Recent Criticism of the Federal Judiciary. |
| 1896. | LORD RUSSELL OF KILLOWEN, Lord Chief Justice of Eng- land | International Law and Arbitra- tion. |
| 1897. | JOHN W. GRIGGS..... | Lawmaking. |
| 1898. | JOSEPH H. CHOATE..... | Trial by Jury. |
| 1899. | WILLIAM LINDSAY | Power of the United States to Acquire and Govern Foreign Territory. |

| YEAR. | NAME | SUBJECT. |
|-------|---|---|
| 1900. | GEORGE R. PECK..... | The March of the Constitution. |
| 1901. | CHARLES E. LITTLEFIELD..... | The Insular Cases. |
| 1902. | JOHN G. CARLISLE..... | The Power of the United States to Acquire and Govern Terri- tory. |
| 1903. | LE BARON B. COLT..... | Law and Reasonableness. |
| 1904. | AMOS M. THAYER..... | The Louisiana Purchase; Its In- fluence and Development Un- der American Rule. |
| 1905. | ALFRED HEMENWAY | The American Lawyer. |
| 1906. | ALTON B. PARKER..... | The Congestion of Law. |
| 1907. | RT. HON. JAMES BRYCE, British Ambassador to the United States | The Influence of National Char- acter and Historical Environ- ment on the Development of the Common Law. |
| 1908. | GEORGE TURNER | The Acquisition of the Pacific Northwest. |
| 1909. | AUGUSTUS E. WILLSON..... | The People and Their Law. |
| 1910. | WOODROW WILSON | The Lawyer and the Community. |
| 1911. | WILLIAM B. HORNBLOWER.... | Anti-Trust Legislation and Liti- gation. |
| 1912. | FRANK B. KELLOGG | New Nationalism. |

PAPERS READ

| YEAR. | NAME. | SUBJECT. |
|-------|---------------------------|---|
| 1879. | CALVIN G. CHILD..... | Shifting Uses, from the Stand- point of the Nineteenth Cen- tury. |
| 1879. | HENRY HITCHCOCK | The Inviolability of Telegrams. |
| 1879. | GEORGE A. MERCER..... | The Relationship of Law and National Spirit. |
| 1880. | HENRY E. YOUNG..... | Sunday Laws. |
| 1880. | GEORGE TUCKER BISPHAM.... | Rights of Material Men and Em- ployees of Railroad Companies as against Mortgagees. |
| 1880. | HENRY D. HYDE..... | Extradition between the States. |
| 1881. | THOMAS M. COOLEY..... | The Recording Laws of the United States. |
| 1881. | SAMUEL WAGNER | The Advantages of a National Bankrupt Law. |
| 1882. | GUSTAVE KOERNER | The Doctrine of Punitive Dam- ages and its Effect on the Ethics of the Profession. |
| 1882. | U. M. ROSE..... | Titles of Statutes. |
| 1882. | THOMAS J. SEMMES..... | The Civil Law as Transplanted in Louisiana. |
| 1883. | ROBERT G. STREET..... | How far Questions of Public Pol- icy may enter into Judicial Decisions. |
| 1883. | JOHN M. SHIRLEY..... | The Future of our Profession. |
| 1883. | SIMEON E. BALDWIN..... | Preliminary Examinations in Criminal Proceedings. |
| 1883. | SEYMOUR D. THOMPSON..... | Abuses of the Writ of Habeas Corpus. |
| 1884. | ANDREW ALLISON | The Rise and Probable Decline of Private Corporations in America. |
| 1884. | M. DWIGHT COLLIER..... | Stock Dividends and their Re- straint. |
| 1884. | SIMON STEENE | The Prevention of Defective and Slipshod Legislation. |

| YEAR. | NAME. | SUBJECT. |
|-------|--------------------------|---|
| 1885. | RICHARD M. VENABLE..... | Partition of Powers between the Federal and State Governments. |
| 1885. | REUBEN C. BENTON..... | The Distinction between Legislative and Judicial Functions. |
| 1885. | FRANCIS RAWLE | Car Trust Securities. |
| 1886. | JOHNSON T. PLATT..... | The Opportunity for the Development of Jurisprudence in the United States. |
| 1886. | WILLIAM P. WELLS..... | The Dartmouth College Case and Private Corporations. |
| 1886. | JOHN F. DILLON..... | Law Reports and Law Reporting. |
| 1887. | HENRY JACKSON | Indemnity the Essence of Insurance; Causes and Consequences of Legislation qualifying this Principle. |
| 1887. | JAMES K. EDSALL..... | The Granger Cases and the Police Power. |
| 1888. | J. RANDOLPH TUCKER..... | Congressional Power over Inter-State Commerce. |
| 1888. | J. M. WOOLWORTH..... | Jurisprudence Considered as a Branch of the Social Science. |
| 1889. | HENRY B. BROWN..... | Judicial Independence. |
| 1889. | WALTER B. HILL..... | The Federal Judicial System. |
| 1890. | HENRY C. TOMPKINS..... | The Necessity for Uniformity in the Laws Governing Commercial Paper. |
| 1890. | DWIGHT H. OLMSTEAD..... | Land Transfer Reform. |
| 1890. | JOHN F. DUNCOMBE..... | Election Laws. |
| 1891. | FREDERICK N. JUDSON..... | Liberty of Contract under the Police Power. |
| 1891. | W. B. HORNBLOWER..... | The Legal Status of the Indian. |
| 1892. | JOHN W. CARY..... | Limitations of the Legislative Power in Respect to Personal Rights and Private Property. |
| 1892. | WILLIAM L. SNYDER..... | The Problem of Uniform Legislation. |
| 1893. | HENRY WADE ROGERS..... | The Treaty-Making Power. |
| 1893. | W. W. MCFARLAND..... | The Evolution of Jurisprudence. |
| 1893. | U. M. ROSE..... | Trusts and Strikes. |
| 1894. | HAMPTON L. CARSON..... | Great Dissenting Opinions. |

| YEAR. | NAME. | SUBJECT. |
|-------|--|---|
| 1894. | CHARLES CLAPLIN ALLEN.... | Injunction and Organized Labor. |
| 1895. | WILLIAM WIRT HOWE..... | Historical Relation of the Roman Law to the Law of England. |
| 1895. | RICHARD WAYNE PARKER.... | The Tyrannies of Free Government, or the Modern Scope of Constitutional Guarantees of Liberty and Property. |
| 1896. | JAMES M. WOOLWORTH..... | The Development of the Law of Contracts. |
| 1896. | JOSEPH B. WARNER..... | The Responsibilities of the Lawyer. |
| 1896. | MONTAGUE CRACKANTHORPE, of the English Bar..... | The Uses of Legal History. |
| 1897. | ROBERT MATHER | Constitutional Construction and the Commerce Clause. |
| 1897. | EUGENE WAMBAUGH | The Present Scope of Government. |
| 1898. | LYMAN D. BREWSTER.... | Uniform State Laws. |
| 1898. | L. C. KRAUTHOFF..... | Malice as an Ingredient of a Civil Cause of Action. |
| 1899. | EDWARD Q. KEASBEY..... | New Jersey and the Great Corporations. |
| 1899. | SIR WM. RANN KENNEDY, Judge of the English High Court | The State Punishment of Crime. |
| 1900. | EDWARD AVERY HARRIMAN... | <i>Ultra Vires</i> Corporation Leases. |
| 1900. | JOHN BASSETT MOORE..... | A Hundred Years of American Diplomacy. |
| 1900. | RICHARD M. VENABLE..... | Growth or Evolution of Law. |
| 1901. | RICHARD C. DALE..... | Implied Limitations upon the Exercise of the Legislative Power. |
| 1901. | HENRY D. ESTABROOK..... | The Lawyer, Hamilton. |
| 1901. | CHARLES J. HUGHES, JR..... | The Evolution of Mining Law. |
| 1901. | PLATT ROGERS | The Law of New Conditions— Illustrated by the Law of Irrigation. |
| 1902. | M. D. CHALMERS, Parliamentary Counsel to the Treasury (England)... | Codification of Mercantile Law. |
| 1902. | ANASA M. EATON..... | The Origin of Municipal Incorporation in England and in the United States. |

| YEAR. | NAME. | SUBJECT. |
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| 1902. | EMLIN MCCLAIN | The Evolution of the Judicial Opinion. |
| 1903. | SIR FREDERICK POLLOCK, of the English Bar..... | English Law Reporting. |
| 1903. | WILLIAM A. GLASGOW, JR.... | A Dangerous Tendency of Legislation. |
| 1904. | J. M. DICKINSON..... | The Alaskan Boundary Case. |
| 1904. | BENJAMIN F. ABBOTT..... | To what Extent will a Nation Protect its Citizens in Foreign Countries? |
| 1905. | RICHARD LOCKHART HAND.... | Government by the People. |
| 1906. | ROSCOE POUND | The Causes of Popular Dissatisfaction with the Administration of Justice. |
| 1906. | JOHN J. JENKINS..... | Can Congress Transfer to the States its Power to Regulate Commerce? |
| 1906. | THOMAS J. KERNAN..... | The Jurisprudence of Lawlessness. |
| 1906. | GEORGE B. DAVIS..... | Some Recent Progress in International Law. |
| 1907. | CHARLES F. AMIDON..... | The Nation and the Constitution. |
| 1907. | CHARLES A. PROUTY..... | A Fundamental Defect in the Act to Regulate Commerce. |
| 1908. | CORNELIUS H. HANFORD..... | National Progression and the Increasing Responsibilities of Our National Judiciary. |
| 1908. | EDGAR H. FARRAR..... | The Extension of the Admiralty Jurisdiction by Judicial Interpretation. |
| 1908. | FREDERICK BAUSMAN | Are Our Laws Responsible for the Increase of Violent Crime? |
| 1909. | GEORGES BARREY | French Family Law. |
| 1909. | JULIAN W. MACK..... | Juvenile Courts. |
| 1909. | WILLIAM L. CARPENTER..... | Courts of Last Resort. |
| 1910. | W. A. HENDERSON..... | The Development of the Honorarium. |
| 1910. | CHARLES W. MOORES..... | The Career of a Country Lawyer—Abraham Lincoln. |

| YEAR. | NAME. | SUBJECT. |
|-------|---|----------------------------------|
| 1911. | JUSTICE HENRY B. BROWN, Retired..... | The New Federal Judicial Code. |
| 1911. | ROBERT S. TAYLOR | Equity Rule 33, 34 and 35. |
| 1912. | HON. GEORGE SUTHERLAND... | The Courts and the Constitution. |
| 1912. | SYMPOSIUM | The American Judicial System. |
| | HENRY D. ESTABROOK..... | (a) The Judges. |
| | JOSEPH C. FRANCE..... | (b) The Lawyers. |
| | FREDERICK N. JUDSON..... | (c) The Procedure. |

PAPERS READ

SECTION OF LEGAL EDUCATION

| YEAR. | NAME. | SUBJECT. |
|-------|------------------------|--|
| 1893. | AUSTIN ABBOTT | Existing Questions of Legal Education. |
| 1893. | SAMUEL WILLISTON | Legal Education. |
| 1893. | EMLIN MCCLAIN | The Best Method of Using Cases in Teaching Law. |
| 1894. | HENRY WADE ROGERS..... | Annual Address as Chairman. |
| 1894. | JOHN F. DILLON..... | The True Professional Ideal. |
| 1894. | JOHN D. LAWSON..... | Some Standards of Legal Education in the West. |
| 1894. | SIMEON E. BALDWIN..... | Law School Libraries, and How to Use Them. |
| 1894. | WOODBROW WILSON | Legal Education of Undergraduates. |
| 1894. | JOHN H. WIGMORE..... | A Principal of Orthodox Legal Education. |
| 1894. | EDMUND WETMORE | Some of the Limitations and Requirements of Legal Education in the United States. |
| 1894. | WILLIAM A. KEENER..... | The Inductive Method in Legal Education. |
| 1895. | JAMES B. THAYER..... | Address as Chairman, on The Teaching of English Law at Universities. |
| 1895. | ERNEST W. HUFFCUT..... | The Relation of the Law School to the University. |
| 1895. | DAVID J. BREWER..... | A Better Education the Great Need of the Profession. |
| 1895. | LYMAN ABBOTT | The Relation of Law to Our National Development. |
| 1895. | NATHAN S. DAVIS..... | The Importance of the Study of Medical Jurisprudence by Students of Law, and the Extent to which it should be Taught in Schools and Colleges for the Education of such Students. |
| 1896. | EMLIN MCCLAIN..... | Address as Chairman, on The Law Curriculum. |

| YEAR. | NAME. | SUBJECT. |
|-------|---------------------------|--|
| 1896. | CHARLES M. CAMPBELL..... | The Necessity and Importance of the Study of Common-Law Procedure in Legal Education. |
| 1896. | BLEWETT LEE | Teaching Practice in Law Schools. |
| 1896. | JAMES FAIRBANKS COLBY.... | The Collegiate Study of Law. |
| 1896. | AUSTEN G. FOX..... | Two Years' Experience of the New York State Board of Law Examiners. |
| 1896. | J. W. POWELL..... | On Primitive Institutions. |
| 1896. | JOHN RANDOLPH TUCKER.... | What is the Best Training for the American Bar of the Future? |
| 1896. | GEORGE HENRY EMMOTT..... | Legal Education in England. |
| 1897. | HENRY E. DAVIS..... | Primitive Legal Conceptions in Relation to Modern Law. |
| 1897. | JOHN A. FINCH..... | The Law of Insurance in the Law School. |
| 1897. | CHARLES NOBLE GREGORY.... | The Wage of the Law Teacher. |
| 1898. | SIMEON E. BALDWIN..... | Address as Chairman, on the Readjustment of the Collegiate to the Professional Course. |
| 1898. | EDWARD A. HARRIMAN..... | Educational Franchises. |
| 1898. | CHARLES W. NEEDHAM..... | Schools of Law: The Subjects, Order and Method of Study. |
| 1899. | WILLIAM WIRT HOWE..... | Address as Chairman, on The Study of Comparative Jurisprudence. |
| 1899. | THOMAS BARCLAY | The Teaching of the Law in France. |
| 1899. | N. W. HOYLES, Q. C..... | Legal Education in Canada. |
| 1899. | JOSEPH WALTON, Q. C..... | Notes on the Early History of Legal Studies in England. |
| 1900. | CHARLES NOBLE GREGORY.... | Address as Chairman, on the State of Legal Education in the World. |
| 1900. | HARRY B. HUTCHINS..... | The Law School as a Factor in University Education. |

| YEAR. | NAME. | SUBJECT. |
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| 1900. | WILLIAM DRAPER LEWIS..... | The Proper Preparation for the Study of Law. |
| 1901. | NATHAN ABBOTT | The Undergraduate Study of Law. |
| 1901. | CLARENCE D. ASHLEY..... | Legal Education and Preparation Therefor. |
| 1901. | RALEIGH C. MINOR..... | The Graduating Examination in the Law School. |
| 1901. | HARRY SANGER RICHARDS.... | Shall Law Schools Give Credit for Office Study? |
| 1901. | WILLIAM P. ROGERS..... | Is Law a Field for Woman's Work? |
| 1902. | ERNEST W. HUFFCUT..... | A Decade of Progress in Legal Education. |
| 1902. | HENRY S. REDFIELD..... | A Defect in Legal Education. |
| 1902. | FRANKLIN M. DANAHY..... | Courses of Study for Law Clerks. |
| 1903. | LAWRENCE MAXWELL, JR.... | Examinations for the Bar. |
| 1903. | JAMES B. SCOTT..... | The Place of International Law in Legal Education. |
| 1904. | JAMES BARR AMES..... | Address as Chairman; Reviewing the actions on legal education of the Association, the Committees on Legal Education and the Section of Legal Education, since 1879. |
| 1904. | GEORGE W. KIRCHWEY..... | The Education of the American Lawyer. |
| 1905. | LAWRENCE MAXWELL, JR.... | Address as Chairman; Advocating a higher standard of general education for admission to the Bar. |
| 1905. | NATHAN ABBOTT | Some Questions before American Law Schools. |
| 1905. | JAMES PARKER HALL..... | Practice Work and Elective Studies in the Law School. |
| 1905. | LUCIEN H. ALEXANDER..... | Some Admission Requirements Considered Apart from Educational Standards. |

| YEAR. | NAME. | SUBJECT. |
|-------|----------------------------|---|
| 1906. | WILLIAM DRAPER LEWIS..... | Address as Chairman; Legal Education and the Failure of the Bar to Perform its Public Duties. |
| 1906 | EUGENE A. GILMORE..... | The Relation of the University to Professional Instruction in Law. |
| 1906. | MARK NORRIS | Some Notions about Legal Education. |
| 1906. | GEORGE W. WALL..... | The State Bar Examiner and the Law School. |
| 1907. | ROSCOE POUND | Address as Chairman; The Need of a Sociological Jurisprudence. |
| 1907. | WILLIAM R. VANCE..... | Legal Education in the South. |
| 1908. | SAMUEL WILLISTON | Address as Chairman; The Necessity of Idealism in Teaching Law. |
| 1908. | WILLIAM SCHOFIELD | The Relation of the Law Schools to the Courts. |
| 1908. | KARL VON LEWINSKI..... | The Education of a German Lawyer. |
| 1908. | ANDREW A. BRUCE..... | The Relation of the Bar Examiner to the Law School and Legal Education. |
| 1909. | HARRY S. RICHARDS..... | Address as Chairman: Neglected Phases of Legal Education. |
| 1909. | FRANKLIN M. DANAHER..... | Some Suggestions for Standard Rules for Admission to the Bar. |
| 1909. | JAMES PARKER HALL..... | The Study of Law by Correspondence. |
| 1910. | WILLIAM O. HART..... | Address as Chairman. |
| 1910. | EDWARD S. COX-SINCLAIR.... | Requirements for Admission to the Bar in Great Britain and Her Possessions. |
| 1910. | ANDREW R. MCMASTER..... | Regulations Governing Admission to the Bar in the Province of Quebec, Canada. |
| 1910. | MANUEL RODRIGUEZ-SERRA.... | Admission of Attorneys from the Spanish Standpoint. |

| YEAR. | NAME. | SUBJECT. |
|-------|---------------------------|---|
| 1911. | SIMEON E. BALDWIN | The Study of Roman Law in American Law Schools. |
| 1911. | C. LA RUE MUNSON | In Memoriam: George Matthews Sharp, LL. D., Chairman-Elect, 1910-11. |
| 1911. | FREDERIC R. COUDERT | The Crisis of the Law and Professional Incompetency. |
| 1911. | JOHN B. SANBORN | Law Schools and Admission to the Bar. |
| 1912. | JOHN B. WINSLOW | The Relation of Legal Education to Simplicity in Procedure. |
| 1912. | HARLAN F. STONE | The Importance of Actual Experience at the Bar as a Preparation for Teaching Law. |
| 1912. | CHARLES A. BOSTON | The Recent Movement towards a Realization of Ideals in Legal Ethics. |

PAPERS READ

SECTION OF PATENT LAW

| YEAR. | NAME | SUBJECT. |
|-------|--------------------------|--|
| 1895. | R. S. TAYLOR..... | Patent Law and Practice. |
| 1899. | JAMES H. RAYMOND..... | Address as Chairman. |
| 1899. | LESTER L. BOND..... | Preliminary Injunctions. |
| 1899. | FREDERICK P. FISH..... | The Conditions under which Preliminary Injunctions in Patent Causes should be Granted or Refused. |
| 1899. | E. B. SHERMAN..... | Masters in Chancery. |
| 1899. | ARTHUR STEUART | What Constitutes Invention in the Sense of the Patent Law. |
| 1899. | ROBERT S. TAYLOR..... | Shall There be One or More Special Courts of Last Resort in Patent Causes. |
| 1900. | FREDERICK P. FISH..... | Address as Chairman. |
| 1900. | LYSANDER HILL | Unfair Competition in Trade. |
| 1900. | ARTHUR STEUART | Copyright for Design. |
| 1902. | LESTER L. BOND..... | Address as Chairman. |
| 1902. | ARTHUR P. GREELEY..... | Pending Trade-Mark Legislation. |
| 1902. | ARTHUR STEUART | Trade Marks: Criminal Remedy. |
| 1902. | LYSANDER HILL | Preliminary Injunction in Patent Suits. |
| 1902. | HAROLD BINNEY | History and Present Status of the Law Relating to Designs. |
| 1902. | ARTHUR S. BROWNE..... | Patent Litigation from the Expert's Standpoint. |
| 1902. | CHARLES MARTINDALE | Evils of the Present System of Producing Evidence in Equity Causes and a Remedy Therefor. |
| 1902. | MELVILLE CHURCH | Is the Entire Jurisdiction of the Circuit Courts in the Matter of Suits for the Infringement of Patents Defined by the Act of March 3, 1897? |
| 1903. | ROBERT H. PARKINSON..... | Concerning Federal Trade-Mark Legislation: Its Needs, Whence and What the Power. |

| YEAR. | NAME. | SUBJECT. |
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| 1903. | J. NOTA MCGILL..... | Liability of Officers of a Corporation for Infringement of a Patent. |
| 1904. | EDMUND WETMORE | Address as Chairman, on Some Suggestions as to Reform in Practice and Procedure in Patent Cases in the Federal Courts. |
| 1904. | WILLIAM W. DODGE..... | A Brief Review of Legislation Proposed at the Latest Session of Congress Pertinent to Patents and Trade-Marks. |
| 1905. | CHARLES H. DUELL..... | Are any changes Desirable in Our Patent System? |
| 1905. | JOSEPH B. CHURCH..... | Needed Reforms in Interference Practice. |
| 1906. | OTTO R. BARNETT..... | The Evolution of the Law of Unjust Trade and Unfair Competition. |
| 1907. | ARTHUR STEUART | Common Law Copyright. |
| 1908. | WALLACE R. LANE | Certain Phases of the Prima Facie Rights of the Patentee. |
| 1908. | J. NOTA MCGILL..... | Abolition of Interference Causes in the Patent Office. |
| 1908. | DOUGLAS DYRENFORTH | The Law's Promise to the Patentee and Its Fulfillment. |
| 1909. | JOHN W. HILL..... | Looking Forward. |
| 1910. | HUGH K. WAGNER..... | Mechanical Equivalents. |
| 1910. | GEORGE A. KING..... | Liability of the United States for Use of Patented Inventions; with Special Reference to the Act of Congress Entitled "An Act to Provide Additional Protection for Owners of Patents of the United States and for Other Purposes." |
| 1911. | EDWARD J. PRINDLE | The Relation of the Doctrine of Equivalents to the Interpretation of Claims of Patents. |
| 1912. | ARTHUR M. MORSELL | The Burden of Proof in Accounting Proceedings in Patent Suits. |
| 1912. | J. NOTA MCGILL | Trade Mark Registration. |

PAPERS READ COMPARATIVE LAW BUREAU

| YEAR. | NAME. | SUBJECT. |
|-------|-------------------------|---|
| 1908. | SIMEON E. BALDWIN..... | Address as Director: Current Events in World-Legislation and World-Jurisprudence. |
| 1909. | SIMEON E. BALDWIN..... | Address as Director. |
| 1910. | SIMEON E. BALDWIN..... | Address as Director. |
| 1911. | SIMEON E. BALDWIN | Address as Director. |
| 1912. | SIMEON E. BALDWIN | Address as Director. |

PAPERS READ

ASSOCIATION OF AMERICAN LAW SCHOOLS

| YEAR. | NAME. | SUBJECT. |
|-------|---------------------------|--|
| 1902. | JOSEPH H. BEALE, JR..... | The First Year Curriculum of Law Schools. |
| 1903. | SIMEON E. BALDWIN..... | The Study of Elementary Law, a Necessary Stage in Legal Education. |
| 1903. | WILLIAM S. CURTIS..... | Examinations in Law Schools. |
| 1904. | ERNEST W. HUFFCUT..... | Address as President, on The Elective System in Law Schools. |
| 1904. | HARRY S. RICHARDS..... | Entrance Requirements for Law Schools. |
| 1905. | | (Joint meeting with Section of Legal Education.) |
| 1906. | HENRY WADE ROGERS..... | Address as President, on Law Schools and Admission to the Bar in the South, and Law Degrees. |
| 1906. | FLOYD R. MECHEM..... | The Opportunities and Responsibilities of American Law Schools. |
| 1907. | WILLIAM P. ROGERS..... | Address as President, on the Elevation of the Standard of Admission to the Bar; Courses in Preliminary College Work, and the Honor System. |
| 1907. | ALBERT M. KALES..... | The Next Step in the Evolution of the Case Book. |
| 1908. | GEORGE W. KIRCHWEY..... | Address as President, on American Law and the American Law School. |
| 1908. | DAVID STARR JORDAN..... | The University, the College and the School of Law. |
| 1909. | CHARLES NOBLE GREGORY.... | Address as President: The Past and Present of the Association of American Law Schools. |

| YEAR. | NAME. | SUBJECT. |
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| 1909. | HAROLD D. HAZELTINE..... | Legal Education in England. |
| 1909. | JOHN H. WIGMORE and FREDERIC B. CROSSLEY.... | A Statistical Comparison of College and High School Education as a Preparation for Legal Scholarship. |
| 1909. | HARRY PRATT JUDSON..... | Education Preparatory to a University Law School Course. |
| 1910. | JOHN C. TOWNES..... | Address as President. The Organization and Operation of a Law School. |
| 1910. | WILLIAM MINOR LILE..... | The Honor System. |
| 1910. | WILLIAM DRAPER LEWIS..... | The Honor System. |
| 1911. | WILLIAM R. VANCE | The Ultimate Function of the Teacher of Law. |
| 1911. | HARLAN F. STONE | The Function of the American University Law School. |
| 1911. | Viscount Uchida, Japanese Ambassador to the United States..... | The Teaching of Jurisprudence in Japan. |
| 1912. | ROSCOE POUND | Address as President: Taught Law. |
| 1912. | WALTER W. COOK | The Place of Equity in our Legal System. |
| 1912. | WM. G. HASTINGS | Moot and Practice Courts. |

PAPERS READ

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

| YEAR. | NAME. | SUBJECT. |
|-------|---------------------------|--|
| 1904. | AMASA M. EATON..... | Address as President, on the Negotiable Instruments Law, The Torrens System, Uniform Partnership Act, Marriage and Divorce Laws. |
| 1904. | HORACE L. WILGUS..... | Should there be a Federal Incorporation Law for Commercial Corporations? |
| 1905. | AMASA M. EATON..... | Address as President, on Marriage and Divorce Laws, Desertion and Non-Support Laws, and the Negotiable Instruments Law. |
| 1906. | AMASA M. EATON..... | Address as President, on Recent Changes in the Statute Laws of the States Promoting Uniformity of Legislation; Uniform Divorce Law, and Decisions on the Negotiable Instruments Law. |
| 1907. | AMASA M. EATON..... | Address as President, on The National Congress on Uniform Divorce Laws, and Decisions on the Negotiable Instruments Law. |
| 1908. | AMASA M. EATON..... | Address as President, on the Constitutionality of the Uniform Bills of Lading Act; on Uniform Law Reporting and Decisions on the Negotiable Instruments Law. |
| 1909. | AMASA M. EATON..... | Address as President, on the Attitude of the Bench and Bar towards the Negotiable Instruments Law. |
| 1910. | WALTER GEORGE SMITH..... | Address as President. |
| 1911. | WALTER GEORGE SMITH | Address as President, on Progress of Uniform Legislation. |
| 1912. | WALTER GEORGE SMITH | Address as President. |

PAPERS READ
CONFERENCE OF STATE BOARDS OF LAW
EXAMINERS

| YEAR. | NAME | SUBJECT. |
|-------|------------------------|--|
| 1904. | LUCIUS H. PERKINS..... | The State Board—A Landmark in Lawyer-Making. |
| 1904. | HOLLIS R. BAILEY..... | Practical Suggestions for the Conduct of Bar Examinations. |
| 1904. | W. E. WALZ..... | The Bar Examination from the Standpoint of the Law School Student. |

OFFICERS OF
SECTION OF LEGAL EDUCATION
1912-1913.

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Philadelphia, Pa.

CHARLES M. HEPBURN, *Secretary*,
Indiana University, Bloomington, Indiana.

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1910-11—*GEORGE M. SHARP, *Chairman*.

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1911-12—HOLLIS R. BAILEY, *Chairman*.

CHARLES M. HEPBURN, *Secretary*.

* Deceased.

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SECTION OF PATENT, TRADE-MARK AND COPYRIGHT
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J. NOTA MCGILL, *Secretary*.
McGill Building, Washington, D. C.

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MELVILLE CHURCH, *Secretary*.

1906-07—ROBERT S. TAYLOR, *Chairman*.
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OTTO R. BARNETT, *Secretary*.

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OTTO R. BARNETT, *Secretary*.

1910-11—ROBERT S. TAYLOR, *Chairman*.
OTTO R. BARNETT, *Secretary*.

1911-12—ROBERT S. TAYLOR, *Chairman*.
J. NOTA MCGILL, *Secretary*.

* Deceased.

OFFICERS OF
ASSOCIATION OF AMERICAN LAW SCHOOLS
1912-1913.

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* Deceased.

OFFICERS OF
CONFERENCE OF COMMISSIONERS ON UNIFORM
STATE LAWS

1912-1913.

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FORMER OFFICERS

The first Conference of Commissioners on Uniform State Laws was held at Saratoga Springs, New York, in August, 1892; the second at New York, New York, in November, 1892. Since then the Conference has been held annually at the place of and immediately preceding the meeting of the American Bar Association.

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†1896-1900—*LYMAN D. BREWSTER.....Danbury, Connecticut.
1901-1909—AMASA M. EATON.....Providence, Rhode Island.
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1895-1898—FREDERIC J. STIMSON.....Boston, Massachusetts.
1898-1906—ALBERT E. HENSCHEL.....New York, New York.
1906-1912—CHARLES THADDEUS TERRY. New York, New York.
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1906-1907—BUCHANAN PERINCincinnati, Ohio.
1907-1910—FRANCIS A. HOOVER.....Cincinnati, Ohio.
1910-1912—M. GRUNTHALNew York, New York.

* Deceased.

† Prior to 1896 the Conference was presided over by a Chairman.

PROCEEDINGS
OF THE
SECTION OF LEGAL EDUCATION

Wednesday, August 28, 1912, 3 P. M.

The Section was called to order by the Chairman, Hollis R. Bailey, of Massachusetts.

The Chairman :

The first business is the appointment of a committee to nominate officers of the Section for the ensuing year. I will appoint the following: Francis M. Burdick, Edward W. Hinton, and Alfred F. Mason.

The Chairman then delivered the annual address.

(The Address follows these minutes, page 731.)

Francis M. Burdick, of New York :

The Committee on Nominations unanimously recommend the election of the following gentlemen as officers of the Section :

For Chairman: Walter George Smith, of Pennsylvania.

For Secretary: Charles M. Hepburn, of Indiana.

The report was received and the nominees unanimously elected.

The Chairman :

Gentlemen, I have now the honor of introducing John B. Winslow, Chief Justice of the Supreme Court of Wisconsin, who will read a paper on the subject of The Relation of Legal Education to Simplicity in Procedure.

John B. Winslow, of Wisconsin, then read his paper.

(This paper follows these minutes, page 741.)

The Chairman :

Gentlemen, we have listened to a very valuable and I may say very timely paper by Justice Winslow which is akin to the matter that the Association has been discussing.

Before I call for any discussion on the paper, it will be in order to hear from Dean Stone of Columbia University Law School, on "The Importance of Actual Experience at the Bar as a Preparation for Teaching Law."

Gentlemen will recall that in my address I suggested that Dean Ames, of the Harvard Law School, some years ago touched upon that subject and expressed some views upon it.

At the close of the reading of this paper I hope that we may have some discussion of both papers. I now take pleasure in introducing Dean Stone.

Harlan F. Stone, of New York, then read his paper.

(This paper follows these minutes, page 747.)

The Chairman:

I think we should all like to hear from Professor Williston on the point last discussed, about the actual experience at the bar as a preparation for teaching law.

Samuel Williston, of Massachusetts:

I had not expected to say anything, although the subject of Dean Stone's paper is one that interests me very much. I agree so generally with what he has said that it is a little hard for me to discuss the subject, because in so far as one does agree with him it is impossible to express his ideas better than they have already been expressed. If I said anything at all it would simply be to lay the emphasis occasionally a little differently. Contrary to Dean Ames's opinion or desires perhaps, I have myself maintained a certain connection with the practice of law throughout my teaching career, and therefore, if I take the side of the teacher who has not had much or perhaps any experience in practice, I shall in a measure be speaking against interest, so that my testimony may receive a little more attention.

I have seen both types of teachers in action, and it seems to me that I can recognize the distinction and the valuable traits of each. It seems to me that there is a distinct tendency in the man who has had considerable practice or who maintains a connection with practice to lay weight on just the sort of considerations that Dean Stone alluded to—the practical, how the thing works, how you have seen it.

Now, those considerations vary considerably, depending upon the conditions surrounding the actual community in which you live. It is surprising how differently things may be done in one community and in another. When law professors get discussing together in Cambridge, and do not agree, the final remark of one of them not infrequently is: "Well, no court would ever decide that way, no practical lawyer would reach that conclusion." Sometimes when that is said by a gentleman who may come, we will say, from Ohio—(we have professors at Cambridge who have practised in different states)—another gentleman may remark that curiously enough that very thing is actually being done by the courts in Massachusetts. The outlook of one with actual professional experience, in other words, is somewhat narrowed by the practical considerations which hold good in his immediate community but perhaps not elsewhere. Further, I do think that he is held closer to the ground by his knowledge of practice. In the main, I believe with Dean Stone, that this is an advantage, but once in a while you get a man whose wings you do not want to clip. The practising lawyer unquestionably tends to become a conservative, and we need a few radicals. There was perhaps no man of his time more influential in legal matters than Bentham. He could not have written what he did or produced the effect that he did, if he had been a successful practising lawyer. I venture to think that Wigmore on Evidence might not have been so good or so influential a book if its distinguished author had spent a considerable time in practice. The man who is not close to practical matters sometimes sees the general and the ideal better for not having had too much to do with the particular and the actual.

From sheer limitations of time, also, it must more and more tend to become true that one who aspires to be a great student of the law cannot spend much time in practice.

Where I should perhaps really dissent from Dean Stone's paper is in regard to legal ethics and the ideals of the profession. I am not very well satisfied of the possibility of teaching legal ethics as a subject in the law school. Legal ethics if taught in

a scientific manner, I suppose, amounts to a search for the line which is just as far as one can go without going too far. I for one do not care to teach students just where that is. I do not want them to go anywhere near that line. One who does not look upon his profession simply as a means of bread and butter, and who is disposed to try to do right even though it may be somewhat expensive will need little instruction in the particulars of legal ethics. That attitude of mind can be just as well instilled into students by a high minded man who has never practised as by a man who has practised.

I do not believe any man ever taught legal ethics better than Dean Ames, though he had never practised law, and, in some respects, was rather an unpractical man. Students who took his courses got the spirit out of which legal ethics grow. Moreover, I think practising lawyers sometimes get their eyes a bit blinded about legal ethics. Something which the leaders of the profession are doing is received as acceptable by the profession at large without much consideration of the real nature or effect of it. The fact that everybody is doing it is regarded as proof of its propriety. I think here again the outsider who has not had much to do with actual practice sometimes has an advantage. My conclusion, which I stated some years ago, and from which perhaps Dean Stone would not greatly dissent because at the close of his paper he qualified his conclusion that the members of a law faculty should have been practitioners by the use of the words "largely" or "very largely," is that a law faculty should not be composed altogether of one type of men; and, like Dean Stone, I should want a majority of the faculty to be composed of men who had had some connection with practice.

Simeon E. Baldwin, of Connecticut:

Mr. Chairman and gentlemen: This is a subject upon which I have had occasion to think a great deal from various points of view. I have been on the governing boards of several institutions. I had some years experience on the Bench and a long experience at the Bar, and I might add a long experience in teaching in association with others some of whom had practised a great deal and others of whom were teaching part of the time

and practising the rest of the time, and still others who were spending their whole time in teaching; and I must say that I think in making the change from office training to the law schools, we have been in danger of making our law teaching academic, and too far removed from those outside, every day, influences that tend to affect results in litigation. I do not think that any professor in a law school, trained simply in the law school and not in the office, can ever fully appreciate important forces that are not scientific, excepting in the broadest sense of sociological science, which weigh with the court, and weigh with the lawyer on the other side. If a man has been taught in the school that the law is like a nickel-in-the-slot machine, so that if you put in a certain question, the answer will be ground out by a certain rule, he has not learned law. It seems to me that it is desirable that every teacher should, as far as possible, have some training at the Bar or else should seek it while a member of a faculty of a law school. At the same time I am equally ready to say that if a man has strong native gifts as a teacher he will be a far better teacher than a man who has not such gifts but has had a large practical experience at the Bar. I believe that the two things can be combined and that, where possible, they always should be combined.

William R. Vance, of Minnesota:

It seemed to me as I listened to the interesting paper of Dean Stone that there is a little disposition manifested to consider this question from an *a priori* standpoint. What is the use of arguing as to what may be the tendency when we have so much material before us to determine just what has been the result? That is the test. A Lord Chancellor was asked how he succeeded in securing such excellent judges. He replied that he always took care to select a gentleman and if he knew a little law, so much the better. Now, the important thing is to get a teacher. A successful teacher is a very different man from a successful lawyer or even a great lawyer, and a very different man from a learned and efficient judge. The art of teaching is undoubtedly to be differentiated from the art of practice. Therefore, the very first aim in selecting recruits for any law faculty is to

secure a teacher, and if he is also an effective advocate or a successful practising lawyer so much the better. But first and foremost he must be a teacher.

Let us now come to the specific point to which Dean Stone's paper was addressed, that is, the growing practice of selecting young men to fill vacancies in law faculties. Again we have abundant experience before us. Let us put ourselves in the position of the governing board of a law school or the administrative officer who has a vacancy to fill. There is a very real practical issue before him. He must not make a mistake. If he gets in a very poor teacher he may get rid of him, but if he gets a mediocre man it is hopeless, because such a man, while not efficient, will yet be good enough to make it impossible to get rid of him.

There are several classes of men to whom an administrator may look as furnishing possibly a proper candidate for a vacancy. He may feel that he ought to go out among the practising lawyers in his vicinity or in the state, or elsewhere, to secure a man who has not only been trained in the law, but who has become a leader at the bar. But he is almost sure to find that such a man is already earning an income that makes it impossible to procure his services. If he has it in his power to offer a very large salary, as very few of our law schools have, it may be that he will be able to persuade some man who has made a marked success at the bar and who has shown that he possesses all those qualifications that would reasonably insure his success in the class room to leave his practice; but very few law schools, perhaps not more than two or three in this country, can offer salaries that will have that effect. Therefore, if the administrator who is selecting a law professor is going to go into the ranks of the active practitioners he must of necessity select a man who has not yet won a leading place at the Bar. That means that he must get a very young practitioner, or else he must get a practitioner who is of mediocre ability.

There is another class from which he might select. He might go among other law schools and select a man who has already demonstrated his peculiar ability as a teacher, provided he has

the power to offer a large salary. But very few law schools can bid high in the professional market. You might say, therefore, that since he is looking for a man of first class ability he ought at once to go among the younger members at the Bar whose income is not yet so great as to put them out of the reach of the law school. If he does that he must bring in to his law faculty, such a man as a full professor, at the salary of a full professor. Curious as it may seem, one can never be sure that a man who has manifested great ability and great promise in a few years at the Bar is going to succeed in the class room. We have all seen too many sad examples of promising young lawyers transported into law faculties, there to become failures. Therefore, such a course is dangerous. The other alternative suggested by Dean Stone is to bring in a promising lawyer to give a few lectures. That is pretty nearly always impossible unless your school happens to be in a metropolitan center, and many of our schools are not. Even in the great metropolitan centers where there are large local Bars upon which some such experiments might be tried, the plan is apt to be unsatisfactory, because it seldom happens that a man drawn from active practice into the law school to give lectures or to do teaching incidentally will do satisfactory work. I think all of us will bear testimony to that effect. The man who gives efficient instruction must throw his mind and spirit into it unreservedly, and it is practically impossible for a man whose principal thoughts are with his clients to give that intensity of interest to the preparation of a lecture or the conduct of a recitation that is necessary to make it of real value to the students. Therefore, as a matter of practical expediency, unless the administrator of a law school is able to draft a successful teacher from another law school by giving him a larger salary, he is pretty nearly forced to take from the recent graduates of the law school young men who have proven that they possess ability of the very first order and bring them into the law faculty as instructors or assistants. Then they can be tried out, and, if they feel that that is the career for them, they may be induced to remain. The intense ambition of a young man of first class ability is what is needed in a class-

room. Such a man may succeed and develop as a teacher. If it turns out that in spite of his achievements in the school as an undergraduate he has not the teaching gift, you can let him go without having done him any serious injustice. We have sitting here in this room many men, who, if they had gone to the Bar and stayed there ten years before they went to the law school could not have been gotten for three times the salary that the law schools are paying them today. Of course, we all realize the truth of what Dean Stone says, that it is desirable that a teacher should have had experience at the Bar, yet as a practical matter it is pretty nearly necessary that in the majority of cases the members of our law school faculties should be caught young.

The Section then adjourned to Thursday, August 29, at 2.30 P. M.

SECOND SESSION.

Thursday, August 29, 1912, 2.30 P. M.

Henry Wade Rogers, of Connecticut, called the meeting to order.

Mr. Rogers:

I take great pleasure in presenting to the Section Mr. Boston.

Charles A. Boston, of New York, then read his paper.

(This paper follows these minutes, page 761.)

Chairman Bailey then resumed the Chair.

The Chairman:

I am sure we are all deeply interested in this matter. In Massachusetts we have begun to do some of these things that Mr. Boston speaks of in his paper. We have rather a live Grievance Committee there. I happen to be a member of it, and I am sure that we shall all go away from this meeting feeling deeply indebted to Mr. Boston for the information and advice which he has given us. I am sorry, gentlemen, that I cannot remain through this meeting, but I must leave presently to attend a meeting of the Executive Committee of the American Bar Association, and I will ask Professor Rogers to take the Chair.

Before I leave there is another matter which I wish to bring

before the meeting. Mr. Lucien Hugh Alexander, the Chairman of the Committee on Standard Rules for Admission to the Bar, has prepared a short report which I have been requested to present to the Section. It reads as follows:

To Members of the Section of Legal Education, American Bar Association:

Your committee is of opinion that the cause in hand will be best served by our re-submitting our 1911 report, rather than a new one, for the reason that as yet there has not been full discussion upon the propositions in last year's report in the light of the opinions *pro* and *con* quoted therein.

Furthermore we have recently, in accordance with the action of the Section, at the 1911 meeting, sent out a reprint of our 1911 report to all members of the American Bar Association, federal judges, state appellate judges, Bar examiners, law school professors and Chairmen of the Committee on Legal Education of the State Bar Associations, with request for expressions of opinion upon the various points set forth therein. These replies are now coming in and we believe our final report should be presented only after the members of your committee have had an opportunity thoroughly to digest them.

We accordingly annex as part of the present report copy of our 1911 report that it may be before the Section at this meeting and incorporated as part of the proceedings in the Association's 1912 volume,* and we recommend that the committee be continued.

Two of the sixteen propositions (Nos. I and XI), are particularly set for discussion at the current meeting, but we hope that time will permit all to receive attention in the debate.

(Signed) HOLLIS R. BAILEY, Massachusetts,
WESLEY W. HYDE, Michigan,
HENRY H. INGERSOLL, Tennessee,
FRANK IRVINE, New York,
LAWRENCE MAXWELL, Ohio,
GEORGE W. WALL, Illinois,
LUCIEN HUGH ALEXANDER, Pennsylvania,
Chairman.

* 1911 report of committee herein referred to appears in this volume, pages 813 to 866. Copies of the report may be obtained from Charles M. Hepburn, Secretary of the Section of Legal Education, Bloomington, Indiana, or from George Whitelock, Secretary of the American Bar Association, Baltimore, Md.

On motion, the report was received and adopted and the Committee continued.

The Secretary :

I have received a telegram from Julius Henry Cohen, of New York, expressing his regret that he is unable to be present at the reading of Mr. Boston's paper. Since then there has come a letter from Mr. Cohen containing a brief statement of some matters which he wished to bring up in connection with that paper. After stating his inability to be present at this meeting, Mr. Cohen writes :

"I should like very much to be present if for no other reason than to report to the Section upon some progress that has been made within the past three months, and with which I am more or less familiar.

"The Commercial Law League, an organization of men interested in the practice of commercial law, embracing in its membership some of the leading practitioners in this branch of the law throughout the country, at its convention in 1912, directed the President to appoint a committee of five to take such steps as the committee might deem proper to remedy existing abuses in bankruptcy. The committee subsequently appointed consisted of Harold Remington, Esq., the author of 'Remington on Bankruptcy,' Hon. David Werner Amram, Referee in Bankruptcy, of Philadelphia, Hon. Edwin G. Adams, Referee in Bankruptcy, of Newark, Frank L. Siddons, of Washington, D. C., and myself as Chairman of the committee.

"After thoroughly investigating the subject, the committee finally agreed upon the following recommendations :

"(a) That the Law League establish a bureau for the reception of complaints against lawyers, for the investigation of such complaints, and the setting in motion of machinery looking to the disciplining of such lawyers.

"(b) The publication of certain specific canons of ethics with reference to bankruptcy practice.

"(c) The acceptance of the Canons of Ethics of the American Bar Association.

"These three recommendations could all be grouped under the two headings, "Discipline" and "Education." At the Convention of the League held in July, 1912, at Colorado Springs, the report of the committee was discussed, and the first and third recommendations were approved. The convention decided to cover the second recommendation by the adoption of the third,

for the reason that the organization did not desire to limit itself to the publication of rules of conduct relating only to bankruptcy practice. By adopting the Canons of Ethics of the American Bar Association, and thus accepting the highest statement of ethical obligations thus far presented to the profession, the League put itself upon record, and by providing for machinery for the reception of complaints it initiated the first national steps towards the elimination of abuses.

"As the group of lawyers in the Commercial Law League come more directly in contact with business men throughout the country than any other group, I ventured, at the June Convention of the National Association of Credit Men at Boston, to address them on the whole subject of the ethics of the practice of the law, and then informed them of the proposed action of the Commercial Law League. The National Association of Credit Men passed resolutions of sympathy with our efforts, and agreed to co-operate to the full extent of its power in the observance of such canons of ethics as would be adopted by the Commercial Law League. In addition, the resolutions called for the appointment of a committee to consider the formulation of appropriate canons of ethics for business men.

"While this agitation has come about through criticism of the administration of the bankruptcy law, it must be taken to indicate real strength in the effort to realize higher ideals in the practice of the law generally.

"Of course, too much must not be expected in the way of immediate results; but in conjunction with the public discussion, both before the National Association of Credit Men and the Commercial Law League, there has been a campaign of education that must ultimately bring good results.

"Of one thing I am certain—there must be much strengthening of ideals before there can be much more realization of ideals.

"In the course of the work that has fallen to the lot of the committee, we learned, with more chagrin than we should like to confess, that many of our professional brethren had come to the Bar rich in learning and intellectual gifts, but poor as the proverbial church mouse in moral ideals. On the other hand, one of the encouraging features of our work was the contact with the young men coming fresh from the law schools of the country, poor in many things, but rich in moral fervor and moral ideals. It is this newer stream of life that must give vitality to the movements now under way in so many directions for the realization of higher ideals in the profession. It is for this reason that the men active at the Bar in this work of education must join hands with the men active in the law schools, and

each must give to the other wise counsel and fresh hope. I should like to be at Milwaukee when Mr. Boston's paper is read, to get some of both, and it is with sincere regret that I must be absent."

Frank Sullivan Smith, of New York:

Should a candidate for the Bar serve a year's clerkship in a law office prior to admission?—This question is based upon proposition XI set forth in the report of the Committee on Standard Rules for Admission to the Bar to the Section of Legal Education of the American Bar Association.

When your Chairman assigned to me the duty of opening the debate on this subject, he sought to protect the members of the Section from the whip and spur of my enthusiasm in the work of legal education as one of those to whom is committed the important trust of passing upon the qualification of applicants for admission to the Bar, by limiting my effort to apply my experience as a member of the New York State Board of Law Examiners, beginning ten years ago, to "a ten minute talk."

But I feel authorized to go further and to do better than to give my own views alone by stating the conclusions reached by my colleagues, Hon. William P. Goodelle and former Judge Franklin M. Danaher, as well as my own. Much weight is due to the opinion of these able and conscientious lawyers, who, since the creation of our Board on the 1st day of January, 1895, skillfully, faithfully and tirelessly have been striving to add lustre to the profession of the law.

That the underpaid work of teachers of law, the fidelity of Bar examiners to the trust imposed upon them, and the influence of high-minded lawyers upon the Bench and at the Bar have been efficient in raising the standard of requirements for admission to the Bar and the consequent uplift of the profession, "a cloud of witnesses" including the youngest members of this Section can attest. Until a comparatively recent time examinations for admission to the Bar were farcical and as a consequence the preparation of candidates for admission was inadequate.

When Hon. Thomas B. Reed, so long the distinguished Speaker of the House of Representatives, left Congress and went

to the City of New York to practice law, a dinner in token of welcome was given him by a distinguished member of the Bar at which were present many of the leading lawyers of the City. In responding to the toast "The Guest of the Evening," Mr. Reed related the manner of his admission to the Bar. He was a clerk in a law office in the City of San Francisco. Across the hall of the same building, was a young friend of his, a clerk in another law office, who was also a candidate for admission to the Bar. One day a man of commanding presence entered the office in which Mr. Reed was at work, asked his name and whether he expected to be examined for admission to the Bar. Mr. Reed stated that he was a candidate for admission when the visitor announced that he was a Judge of the Supreme Court and had come to hold the examination and would proceed at once. Mr. Reed faced the ordeal with trepidation. He had no time to recover before the question was put to him: "Is the legal tender Act constitutional?" Mr. Reed replied, "It is." The examining Judge said: "Your young friend in the other office across the hall says it is not constitutional; but what we want is young lawyers who can answer great constitutional questions promptly. You are both admitted."

Although it has become fashionable to tinker and patch up constitutions hastily, and it is now seriously proposed to find some "expeditious method" to change the Federal Constitution given to us by our fathers, in order to meet the whim of the mob incited by demagogues, legal education of the present day is required to be effective in enabling a lawyer to advise a client how to prevent wrong and maintain right in all the practical affairs of life. This involves questions of practice or procedure, the chief of which the lawyer must know. Practice is particularly complicated in the State of New York with its Code of Civil Procedure, containing 3500 sections; its Code of Criminal Procedure; its Penal Law and its Consolidated Laws, although the last are to a large extent but the enactment into statutes of substantive law.

Within a few years in the State of New York there has been an almost total exodus from the law office as a place of entire

preparation for the law to the law school. In the year 1911, but 9.1 per cent of the 813 new applicants for admission had only law office training, being but seventy-six for the entire state; while 54.2 per cent had exclusive law school preparation and 36.4 per cent had both law school and law office training. But the last mentioned class of students comprises few graduates from law schools and is mostly composed of those who have flitted from law school to law office or from law office to law school, without showing any marked accomplishment in either. However, with the great increase in the number of students whose preparation was wholly at law schools and the consequent decrease in number of those whose sole training was in law offices, there was a marked falling off of knowledge of Pleading, Practice and Evidence. Our Board kept a careful record during one year in order to establish the exact extent to which this had gone. Failures to answer 66 $\frac{2}{3}$ per cent of questions, in Pleading and Practice, amounted to 86 per cent and in Evidence to 60 per cent of those examined, an average in Pleading, Practice and Evidence of 73 per cent of failures. Subsequently the examination was divided into two groups:

Group I. Pleading, Practice and Evidence.

Group II. Substantive Law.

Thus a student passing in one group and failing in the other may concentrate further preparation upon the group in which he failed.

That the excessive number of failures in Pleading, Practice and Evidence aroused law schools and students to the necessity of greater attention to these subjects with the accomplishment of better results is shown by the fact that in the year of 1911, the number of failures in these subjects was reduced to 45.9 per cent of those examined, although in fairness it should be stated that in that year, there were examined in addition to the 813 new applicants between 800 and 900 who had been examined previously one or more times.

Another fact shown by the Bar examinations in New York in 1911, is that the lowest percentage of failure was of those who

had both law school and law office training. This bears great weight in the solution of the question under consideration.

Although the percentage of failure is always higher among those who have had only law office preparation than among those who have had their sole training in law schools, the experience of the New York State Board of Law Examiners, shows that for the best legal education in that State at least, there should be a requirement of three years of law school work, each year to consist of 32 school weeks of ten hours each in a prescribed course of instruction leading to the degree of Bachelor of Laws and taking and passing all examinations in all the subjects required for that degree and in addition thereto a clerkship in the office of a practising attorney which shall be actual and not constructive or fictitious.

The new rules of the New York Court of Appeals which took effect July 1, 1911, mark a great advance in legal education in New York, in that they require of one class of students four years of study of the law, of which one year must be passed continuously by serving a clerkship in the office of a practising attorney. Unfortunately this class is restricted to those who are not graduates of a college or university. No such salutary rule applies to college graduates, who may be admitted after three years of study, wholly by serving a clerkship in the office of a practising attorney; or wholly by attending a law school; or partly by serving such clerkship and partly by attending a law school. There is, in fact, at the present time no adequate reason for such a distinction in New York between college graduates and non-college graduates. Ten years ago there seemed to be some ground for the rule. Then there were 14 per cent less failures in Bar examinations among college graduates than among non-college graduates. In 1911 this difference had diminished to 2.3 per cent. The cause is apparent. Meantime, the Court of Appeals raised the requirements of preliminary education of non-college graduates from 48 regents counts to 60 counts, equivalent to high-school graduation. A college education had not lost its advantage, but high-school education had proved its efficiency. There is, then, no reason to warrant

applying the requirements of a year's clerkship in the office of a practising attorney to a non-college graduate and at the same time relieving a college graduate from the same requirement.

Thus far, the question under discussion has been considered from the viewpoint of a Bar Examiner, as bearing upon the greater or less facility of the student in passing his examination for admission to the Bar and his immediate fitness to practice law. If we study the young lawyer after his admission, we find other important reasons to sustain a compulsory preliminary clerkship.

1. It has an inestimable educational value in familiarizing the student with the duties of a lawyer in his office and in court. He makes the acquaintance of the Judges before whom and of the lawyers with whom he will practice. He learns the practical use of the legal terms, the theoretical use of which he has learned in the law school. He acquires a *savoir faire* which upon his admission distinguishes the finished lawyer from the tyro and makes him at once useful to his employer, his clients and to himself. Without such preparation a law school graduate may be a fair constitutional lawyer but of little practical use in a busy law office.

2. A year's clerkship does much to determine character, and in the proper environment to foster it. In New York, particularly in the City of New York, the work of the Committee on Character is of the utmost importance. Its scope was extended by the last Legislature in order to give unquestionable authority to the Court rules requiring that candidates for admission to the Bar must give evidence of general fitness for the practice of law. This Committee is composed of lawyers of the highest character and attainments. Their work is aided by an opportunity to learn of the conduct of the candidate in surroundings similar to those in which he will practice his profession. The importance of ascertaining the character and fitness of men to become lawyers is painfully demonstrated in New York City by the fact that there are constantly pending in the Appellate Division of the First Department between one and two hundred proceedings for disbarment.

3. This requirement has an *economic* value. In greater New York there are 17,000 lawyers. Their average annual compensation, notwithstanding the large earnings of the principal commercial and corporation lawyers is said to be less than \$1000. Sacrifice the *number* of lawyers to *fitness* and the average compensation will be increased, the temptation to "corrupt the fountain of justice at its source" will be less, and there will be fewer who will use their knowledge of the law as an instrument to promote fraud.

That something to this end has been accomplished in New York is shown by the fact that the per cent of rejections by the State Board of Law Examiners has increased in ten years from 30 per cent to fifty-seven per cent in 1911 and that while the population of the state has increased nearly two millions the number of applicants for admission to the Bar has decreased from an average of 922 ten years ago to 813 in the year 1911.

4. The year of clerkship should be exclusive of all other occupations and should be safeguarded from deception by rules similar to those in force in New York with respect to non-college graduates. It should be continuous and not made up of vacations which occur when the student can obtain the least advantage from experience in a law office.

5. The year of law clerkship should be *subsequent* to a three years' course in a law school in order that the student may understand and make practical application of the terminology and principles he has learned in law school.

6. The year of law clerkship should be *compulsory*. The other learned professions, particularly medicine, require more thorough preparation for entrance thereto than does the law in the greater number of our states. It costs less in time and money to enter the law than to become a horse doctor or a dentist.

7. The last and ideal requirement of a compulsory law clerkship which should and ultimately will be realized, is that it shall follow a three years' course in law school, in which, however, due attention should still be given to the teaching of practice.

Entrance to the law should not be too cheap or too easy. Let the rule of survival of the fittest apply and put an end to the system by which a man can engage in commercial or industrial pursuits by day, attend law school at night, and enter the profession of the law, without having to become a real lawyer and liable soon to yield to the ever present temptation to make his little learning a dangerous thing and to cause the law to become in his hands the "sword of oppression" instead of "the shield of innocence."

Henry M. Bates, of Michigan, assumed the Chair.

The Chairman:

I understand that the order of business now is the consideration, not for the purpose of action, but simply for the purpose of discussion, of the rules printed in the report of the Committee on Standard Rules for Admission to the Bar, and that our attention is asked particularly to propositions I and XI.

John B. Sanborn, of Wisconsin:

As bearing on the requirements of applicants for Bar examinations I would state that our experience in Wisconsin may be of interest. The law requires that they have three years study, without specifying where it shall be pursued, in an office or in a law school or by the taking of a correspondence course. Since I have been connected with the Board of Examiners no one has passed the examination who has not had three years at a law school or three years in an office, and very few have passed who have not had three years in a law school. I think one passed at the last examination who had no law school study, but so far as I could ascertain he was the only man who had not had very thorough preparation in a law school. We have had no conscious intention of shutting out those whom the law permitted to take the examination. We have simply formulated what we believed to be a fair examination, and have required a student to pass it, and apparently those who have not had this study have been unable to pass it.

Hugh McLean, of Colorado:

I thought it might be of interest to give the views of a Western State on Proposition XI. Dean Fleming of the University of Colorado was obliged to leave a few minutes ago, and, as our views coincide, he asked me to express his as well as my own. Our situation is very different from the situation that exists in the State of New York, but it seems impracticable in a rural community, such as is a good part of our state, to require a year in an office after three years have been spent in the law school. The population of Colorado is approximately 750,000, of which population one-third is in the city of Denver. Dean Fleming told me of a young man who went directly upon graduation from his school into a town of perhaps a thousand inhabitants in which there was no practising lawyer—only one justice of the peace. That man, after being of very real service to his community as a lawyer, is now a candidate for attorney general. In New York I suppose it is feasible for graduates to find clerkships in law offices, but that would not be true of any of our Western States.

From that standpoint, that of the practicability of working out a rule of that kind in a state of small population and rural communities, it strikes me that the rule is perhaps worthy of consideration before it is adopted.

W. E. Walz, of Maine:

Whenever the state of New York shall require of every law student three years in a law school and one year in an office, it will have reached the ideal system of dealing with that question. That is the system that I should favor for every State in the Union under any and all circumstances. As Rule No. XI now reads, however, I cannot agree with it for the reasons stated by me in a letter written to Mr. Alexander, the Chairman of this Committee; in other words, for the same reasons urged by Governor Baldwin, of Connecticut, by Dean Rogers, of the Yale Law School, and by the late Judge Levi Turner, of Maine—reasons which appear on pages 49 to 52 of the reprint of the report of the Committee on Standard Rules now in our hands.

E. Barlow, of Michigan:

I think it is a dangerous thing to permit a young man to go into practice until he has had some extended experience in a law office—not one year, but I think it should be three years. He should have that experience after he has graduated from the law school.

James Parker Hall, of Illinois:

I move that it is the sense of this meeting that the committee recommend next year that so far as practicable the states shall require three years of law school education from all applicants for admission to the Bar.

Motion seconded and carried.

The Chairman:

There is one other difficulty about this rule, and before I state it I want to assert my own belief in the value of training in a law office. I have always urged our graduates to seek positions in offices. But the question is: Are we in a position to enforce a requirement of that sort? The other difficulty is that so many of our graduates all over the country are not only poor when they leave the law school, but in debt, and to postpone the period when they are able to earn anything for a year, as this rule would do, in many cases would be a positive hardship.

Frank M. Porter, of California:

I suppose you are now suggesting the ideal towards which it is desired the different states should work. I do not understand that it is claimed that we are now passing anything that can be reached in the immediate future by any of the states. Take my own state of California, for instance. I think that what has been suggested here would be an impossibility there. The code and rules of court in California require nothing except that the applicant shall be able to read and write the English language and have read a prescribed list of books—which can be read in about three months. I think less than 20 per cent of those admitted to the Bar in California come from the law schools. Of the 480 enrolled in our own school, 100 are working their

way through entirely, and another large number are partially self-supporting. Our examination is written and by the Courts. It may not be as thorough as is the examination in New York State and in other Eastern States. I have had freshmen leave our school after being with us four months and take the Bar examination successfully. In California the graduates from four of the law schools are admitted to practice upon presenting diplomas. This recognition of the diploma by the state aids in keeping the student in line for a three years' course of study. So with us this rule No. XI would be an injury rather than a help.

M. C. Lynch, of California:

I do not know whether Mr. Porter is entirely serious when he states that the only requirement for admission to the Bar in our state is the ability to read and write. I do not know how the examinations are conducted in Los Angeles, but I have attended several of the examinations in San Francisco and I have never yet heard an examination without hearing this question: "How long have you studied law?" I am sure that very few candidates were passed by the Court unless they could show that they had studied law for at least three years. So far as the rule No. XI is concerned, I do not think that in my part of the state it would be an impossibility to have it adopted.

Frank M. Porter:

I did not mean to state that there was no examination in our state. I simply meant that the preliminary educational requirements before beginning the study of law were simply that a man should be able to read and write the English language. Of course, the students do have to pass an oral or a written examination.

The meeting adjourned *sine die*.

CHARLES M. HEPBURN,
Secretary.

THE WORK AND AIMS OF THE SECTION.

BY

HOLLIS R. BAILEY,

OF BOSTON, MASSACHUSETTS.

When any institution or association has existed for a considerable period of time it is desirable that it should review its history and see what it has accomplished and consider what it can do in the future to justify its existence. I invite you today to join with me in doing what the prudent merchant does yearly, viz., a taking account of stock.

ORIGIN OF THE SECTION.

The Section was conceived at Saratoga in 1892 and was born at Milwaukee in 1893. It is peculiarly fitting that at this meeting held at the place of its birth the Section should consider its origin, review its work and taking heart from what has been already accomplished, turn its face toward the future with renewed courage and a firm resolve to make the work of the Section in the future even more of a success than it has been in the past.

Prior to 1893 the work of the American Bar Association in the matter of legal education was largely in the hands of the Committee on Legal Education and Admission to the Bar, which was established as a standing committee in 1878 when the Association was first organized.

Among the objects mentioned in the Constitution of the American Bar Association we find the following: "Its object shall be to advance the science of jurisprudence." No mention was made specially of the subject of legal education or admission to the Bar but it was from the outset recognized that an illiterate Bar means an unenlightened judiciary and that the science of jurisprudence can be advanced in no better way than by promoting the cause of legal education and establishing uniform and reasonably strict requirements for admission to the Bar.

The work of the Committee on Legal Education prior to 1893 was somewhat spasmodic. It presented interesting and valuable reports in the years of 1879, 1881, 1890, 1891 and 1892.

The report of 1890 begins as follows:

"The Standing Committee on Legal Education hesitate to break the record of masterly inactivity formed by the unremitting efforts of their predecessors for at least ten successive years."

In 1891 the report of the Committee on Legal Education was so valuable that John F. Dillon of New York, in speaking of it said:

"It is my deliberate conviction that if this Association in the ten or twelve years of its existence had done nothing more than to secure that report, it would have been enough to have justified its existence."

In 1879 the report of the committee contained a resolution urging the requirement of three years study of the law as a prerequisite to admission to the Bar. This resolution came up for consideration at the meeting of the Association held in 1880 and there was such difference of opinion that nearly the entire time of two sessions was consumed by the arguments pro and con.

In 1891 and 1892 the time of the Association was so occupied with other matters that there was no time for the reading of the reports of the Committee on Legal Education already referred to, but in 1892 considerable time was devoted to the discussion of a number of resolutions introduced by the committee, one favoring the requirement of three years study of the law prior to admission, and another favoring the creation of permanent State Boards of Bar Examiners.

It appears quite plainly from a perusal of the Annual Reports of the American Bar Association that the activities of the Association by 1892 had become such that a proper amount of time could not be devoted during the regular meetings of the Association to the consideration and discussion of the subject of Legal Education and admission to the Bar.

The importance of the matter was, however, fully recognized and the scheme of a Section came not as a hostile movement

having for its purpose the side-tracking of the subject of legal education and admission to the Bar, but originated with members of the Committee on Legal Education and their friends who desired to see the cause in which they were interested given more time and greater attention. The Executive Committee of the Association, John Randolph Tucker, of Virginia, being Chairman, was friendly to the movement and in 1893, at Milwaukee, reported a new By-law as follows:

(1) A Section of the Association to be known as the Section of Legal Education is hereby established which shall meet annually in connection with the meeting of the Association but not during such hours as the Association is in session.

(2) Its object shall be the discussion of methods of Legal Education and it may make recommendations to the Association which shall be referred by the Association to the Committee on Legal Education.

(3) The proceedings of the Section may be published from time to time at the discretion of the Executive Committee and on the recommendation of the Committee on Publication.

(4) All members of the Association who desire may enroll themselves as members of the Section and persons not eligible for membership in the Association, but who are engaged in teaching law, may be admitted to the privilege of the floor at any meeting of the Section by vote of the Section.

(5) The Section shall be organized by the annual appointment of a Chairman and Secretary by the Section at its first session.

On motion of Simeon E. Baldwin of Connecticut the By-law was adopted.

The Section on the same day held its first meeting and organized by electing Henry Wade Rogers as Chairman and George M. Sharp as Secretary.

No By-laws were adopted. A resolution, however, was adopted as follows:

“Resolved, That the Chairman and Secretary of the Section of Legal Education and the Chairman of the Standing Committee on Legal Education of the Bar Association for the time being

shall constitute an Executive Committee for the Section with the usual powers of such a committee."

Twenty-seven members of the American Bar Association enrolled themselves as members of the Section.

It is to be noticed that a very close connection was thus established between the Section and the Committee on Legal Education—the Chairman of the committee being, *ex-officio*, a member of the Executive Committee of the Section.

It is also to be noted that any resolutions or matters recommended by the Section to the American Bar Association for its action or approval were to be referred in the first instance to the Committee on Legal Education.

It might have been expected that under this arrangement the Committee on Legal Education would have become more or less dormant contenting itself with considering and dealing with matters emanating from the Section.

Indeed, in 1894 the Committee on Legal Education presented a brief report saying that it was expected that the discussion of methods of Legal Education in the Section would result in recommendations to the Association and the reference of the same to the Committee on Legal Education, and that it seemed to the committee better to allow the Section to take the initiative and await the results of its work.

The course of history, however, has been somewhat different since 1893. The Committee on Legal Education has filed as many as nine reports of an aggregate length of over 270 printed pages.

It has dealt not only with resolutions coming from the Section but has submitted to the Association directly a very considerable number of resolutions of its own making and has procured action by the Association upon the same.

This method of procedure on the part of the Committee on Legal Education if continued may seriously interfere with the work of the Section. The Section will find that many questions which it desires to discuss and recommend action upon have already been acted upon by the Association and possibly in a way which will seem unwise to the Section.

We believe that the original scheme was a good one and that the Committee on Legal Education would do well to allow matters pertaining to legal education and admission to the Bar to be first discussed and acted upon by the Section.

The Section of Legal Education was the first offspring of the American Bar Association. Since the Section came into being the Association has given birth to another Section, viz: The Section of Patent, Trade-Mark and Copyright Law. It has for many years recognized three foster children, viz: The Commissioners on Uniform State Laws, the Comparative Law Bureau, and the Association of American Law Schools.

The Section of Legal Education has no occasion to quarrel with any of these later offspring of the Association except in the matter of obtaining from the parental purse sufficient money to meet its proper expenses. In 1910 the Association was asked to form still another Section but wisely declined to do so. The financial question is always an important one and the Association should not have more children than its income will warrant.

WORK OF THE SECTION.

As we have already stated the object for which the Section of Legal Education was formed as stated in the By-law was the discussion of methods of legal education. This we take it includes the whole matter of legal education and admission to the Bar and the work of the Section thus far has extended more or less over this entire field.

Since 1893 the Section of Legal Education has held meetings annually in connection with the meetings of the American Bar Association.

Including the annual addresses of the different Chairmen there have been in all seventy papers read aggregating over 1000 printed pages.

The subjects of the different papers and the names of the authors are given in the last report (1911) of the American Bar Association at pages 617-620. Among the names which so appear we note those of Prof. James B. Thayer and Dean James Barr Ames, of the Harvard Law School; the name of Simeon E.

Baldwin, Governor of Connecticut and that of Woodrow Wilson, Governor of New Jersey.

During the same period, 1893-1911, there were 81 papers read before the Association itself including the annual addresses of the Presidents, the same aggregating over 2800 printed pages. I have not read all of these papers but I feel sure that the Section has reason to congratulate itself not only upon the extent but also upon the quality of its contributions to the printed records of the Association. The Executive Committee and the Committee on Publication of the Association have given full space to the proceedings of the Section and have printed in full all its papers and addresses. The topics discussed in the various papers have been very varied in character. The conditions of legal education and the requirements for admission to the Bar in all parts of the world have been fully covered.

The proper requirements for admission to the Bar both as regards preliminary general education and period of legal study have been discussed. The work of the law schools and the benefit to be derived from study in a law school as compared with study in a law office have been dealt with.

The work of the boards of Bar examiners has not been overlooked.

I venture to say that there is no body of literature dealing with the subject of legal education which will compare in its extent and value with the papers read before this Section and published in the Reports of the American Bar Association.

But the reading of papers has not been the only important activity of the Section.

There has been much interesting and valuable discussion at the different sessions of the Section and some important resolutions have been adopted and recommended for the consideration of the Association.

In 1895 the lengthening of law school courses to three years was favored and a hope was expressed that each state as soon as practicable would require candidates to study law for three years before applying for admission to the Bar.

In 1897 the Section favored state supervision of law schools in the matter of conferring law degrees and disapproved of law schools granting the degree of Ph. D.

In 1898 the Section extended an invitation to all the members of the different state boards of Bar examiners to attend the meeting and eight state boards were represented and three sessions were devoted to hearing reports from the different delegates.

Since 1898 Bar examiners have frequently been invited to attend our meetings and take part in the exercises.

In 1899 the Section instigated the formation of the Association of American Law Schools, which began regular meetings in 1902. ✓

1901 the meeting of the Section was in Colorado and several ladies who were members of the Bar of the state attended the meeting and joined in the discussion. It is reported that one of these ladies said that if she had known before hand that she would be invited to speak she would have worn a more becoming gown.

It was at this meeting that George M. Sharp who had served continuously as Secretary since 1893 declined a re-election and our present very efficient Secretary, Mr. Hepburn, was elected.

In 1904 Dean James Barr Ames who then held the office of Chairman in his annual address gave a very interesting and valuable review of the work not only of the Section but also of the Committee on Legal Education. In this address he took occasion to speak strongly against the practice of admitting to the Bar on law school diplomas. He also urged the importance of students devoting their whole time to their work in the law schools; and expressed the opinion that a majority of professors and teachers in a law school should give their entire time to school work and not engage in the practice of the law.

In 1905 the Section passed the following resolution:

"Resolved, That the Section of Legal Education of the American Bar Association desires to reiterate the disapproval heretofore expressed of the practice of admitting to the Bar on law school diplomas. The Section is convinced that it is not in the interest of the schools or of the profession that graduates of law

schools should be admitted to the Bar without examination and it recommends that the American Bar Association should again express its opposition to any such policy."

It may be noted here that in 1908 this resolution was approved and passed by the Association.

At the meeting in 1905 in the course of the discussion William S. Curtis, of Missouri, made the following remarks, which will be of interest at this time in view of the paper which we are to have tomorrow from Mr. Boston on a kindred topic. He said:

"I hoped that some one would suggest, since we are talking about elevating the ethical standards of the profession, what I consider the chief difficulty, that is this: The reluctance of our judges to act upon reports of grievance committees of the Bar Association in cases of disbarment; and I hope there are judges here who will listen to this suggestion. Not only do many of our judges hesitate about disciplining the profession in cases requiring it, but when a Bar Association does succeed in having a member disciplined in a year or two afterwards a motion is made for his reinstatement and it is generally granted. That I think is the great abstacle to elevating the general moral tone of the profession."

It was also at this same 1905 meeting that a committee was created to draft a set of standard rules for admission to the Bar.

In 1907 at the meeting in Portland, Maine, the following resolution was introduced and referred to the Committee on Standard Rules of Admission as follows:

"Resolved, That it is desirable that Bar examiners in recommending applicants for admission to the Bar should designate a reasonable number of those best qualified as entitled to honorable mention."

No report has yet been made by the committee.

In 1909 it was voted that the right to confer the degree of LL. B. should be restricted to law schools having a three year course.

The Committee on Standard Rules for Admission to the Bar, appointed in 1905, has during the past three years done a good deal of work through its Chairman in the way of distributing printed copies of its preliminary report and inviting suggestions

thereon. The distribution of printed matter has served to bring the work of the Section to the attention of a very large number of people interested in the matter of legal education and admission to the Bar.

The report of the committee is to be the subject of further discussion at the session tomorrow.

AIMS OF THE SECTION.

It is fair to say I think that the Section of Legal Education has thus far justified its existence and has been worth what it has cost. Let us now consider in closing what the outlook is for the future and whether there still remains work which is worth doing. Bodies like this have no right to exist when they have outlived their usefulness.

It is our duty to see to it that the Section of Legal Education shall do something worth while in the years to come. It will not be enough to meet year by year and listen to the reading of papers however timely able and interesting the same may be. There must be discussion of unsolved problems and resolutions must be framed and passed and recommended for the consideration and approval of the Association. Some one may suggest that all questions of importance will soon be solved. I venture to prophesy that this will not happen, but even if it should happen the work of the Section will not be ended. As long as we have a legal profession just so long will there be a constant stream of illiterate applicants seeking for admission. If the courts and Bar examiners are to protect the public from quacks and shysters they must have the constant support, not only of the lawyers and the Bar Associations, but of the public at large. An enlightened public opinion must be cultivated and maintained.

Human institutions tend to decay and must be constantly watched and protected. In 1842 the State of New Hampshire passed a law providing that any citizen twenty-one years old and of good moral character should be entitled without more to be admitted to the Bar of New Hampshire. New Hampshire long

ago emerged from this state of know-nothingism, but the State of Indiana, if I am correctly informed, still has the New Hampshire law above cited as a part of its constitution.

This law, I am told, is evaded, however, in Indiana and the lawyers of Indiana as a whole are better trained than one would expect.

The Lincoln argument will die hard and it will be a number of years before all the states will make three years study of the law a pre-requisite for admission to the Bar. Some of the law schools will hold fast to their special privilege of obtaining admission for their graduates without any Bar examinations.

With the evening law schools and the correspondence schools encouraging men to study law, even when they have never studied anything else and are almost illiterate so far as general education goes, the fight for a high school education requirement will be a long one.

The Section furthermore in addition to its addresses and papers and discussion and passing of resolutions must have some work by live committees. No committee should consist of more than five members and men should be selected who are not too far apart to attend meetings without undue expense. Money must be provided for the necessary expenses of the Section and its committees.

And now gentlemen let us pledge ourselves to continued effort with fresh zeal in the work of making the profession of the law what it ought to be—learned and honorable.

RELATION OF LEGAL EDUCATION TO SIMPLICITY IN PROCEDURE.

BY

JOHN BRADLEY WINSLOW,

CHIEF JUSTICE OF SUPREME COURT OF WISCONSIN.

The greatest teacher whom the world has ever seen was once sharply criticized because he had disregarded the petty rules laid down by the Rabbinical code for the observance of the Sabbath day. Turning upon his critics he utterly silenced them with this sentence, "The Sabbath was made for man, not man for the Sabbath."

Paraphrasing the sentence and applying it to the subject in hand, we may obtain in a single proposition the fundamental principle which should govern procedure, namely, "Procedure is made to serve the law, not the law to serve procedure."

If this principle had always been fully appreciated and scientifically applied, we never should have the involved and complicated codes of procedure which we now have.

The chief difficulty is doubtless one that is fundamental with human nature. Man admires a beautiful and ingenious machine simply because it is beautiful and ingenious. There is a certain fascination in the operation of complicated mechanism apart from any consideration of its usefulness. We like to see it operate because of its ingenuity and perfection as machinery alone, whether it be capable of rendering any service or not.

This tendency extends to what may be called intellectual machinery as well as to machinery composed of brass or steel.

The stationary engineer loves his engine for its very intricacy, the skilled legal logician loves his complicated procedure for the same reason; both are apt to forget that their machines are only valuable in proportion as they accomplish useful results with a minimum expenditure of energy. The circumlocution office was not a mere figment of a great novelist's brain, nor the action of *Jarndyce vs. Jarndyce* purely imaginary.

There must, of course, be some machinery if results are to be reached in any important field of human endeavor. The practical application of any system of abstract principles intended to govern the affairs or conduct of men, whether those principles be governmental, religious, or legal, will require the formulation and use of *some* rules and regulations if any satisfactory results are to be attained. This seems self-evident, but experience amply proves its truth if proof be necessary.

Such rules and regulations, however simple, constitute machinery and the desideratum always must be the minimum of machinery consistent with the maximum of useful results. The danger is that the machinery will come to be regarded as more important than the result to be reached.

Rules of procedure constitute a large part of the machinery of the law. They may be so numerous and complicated as to make it possible for astute lawyers to befog the issue and defeat justice or delay it until it has become worthless; or they may be so few in number and vague in terms that litigants are furnished no sufficient information of the issues which they have to meet, and thus are denied substantial justice.

The ideal system of procedure must be simple in its requirements and prompt and efficient in its results, but it must at the same time adequately protect all substantial rights and prevent the taking of snap judgments.

It cannot be said, I think, that this ideal procedure has been attained in any of our American judicial systems, although there are some jurisdictions where it may fairly be said that there has been some approach to it.

Whether it can be substantially attained is an important question, well-nigh as important as any which we have before us, for the people are demanding efficiency in the administration of the law as never before, and there is scant patience with the threadbare excuses for the frequent miscarriages of justice which have done service in the past.

It will go without saying, in this presence at least, that if we are to have such an ideal code of procedure it must be the work of high-minded, educated lawyers. Laymen may render valuable assistance in the work, and their assistance will be welcomed,

but the questions which will arise will demand for their satisfactory solution the mature thought of the scientifically educated lawyer, who has experienced the practical difficulties in the way, as well as the mature thought of the philosopher who views the question from the student's standpoint.

Further, it may truthfully be said that, unless both Bench and Bar honestly co-operate in the endeavor to apply the simplified code, it cannot succeed, even though it be spread upon the statute books.

It seems, therefore, unquestionable that if we are to have simplified procedure which shall accomplish the desired results, we must first have a scientifically educated, as well as a high-minded, Bench and Bar to administer that procedure. Inasmuch as legal education is now obtained almost exclusively from the law schools the question how we are to obtain such a Bench and Bar seems in popular parlance to be "up to the law schools." What can the law schools do to endow us with such lawyers and judges, and how shall they do it?

The question is not entirely easy to answer. It is indisputable, I think, that procedure is a difficult subject to teach in a law school. We have so many legal jurisdictions, each endowed with a procedure differing in greater or less degree from any other, that it would be useless to attempt even to list them all, much less to make any careful study of them all. Even the so-called code states have no uniformity, although most of them claim to be based on one model. General principles only can be taught, and even these are subject to exception so frequently that they become of little practical value. I have an impression that the school of actual practice is the only school in which the procedure of any given jurisdiction can be successfully learned. For instance, it seems to me that any attempt to teach students in a law school the various provisions of that legal monstrosity known as the New York Code, with its 3500 sections annotated in three immense volumes, must end in failure. I say this with diffidence, because I have had no practical experience as a teacher in any school. There may be methods by which some accurate instruction in the general principles of existing court procedure can be given in the law schools, and I am willing to admit for the pur-

poses of this paper that there are such methods and that they are being universally used. That fact, if it be a fact, has little or no bearing on the question we are now considering.

The fact that a student has fully mastered the complicated provisions of any given system of procedure or of a number of such systems even does not necessarily fit or impel him to render any assistance in the work of simplification. Indeed, this very fact may impel him to oppose any change. His proficiency in procedure will naturally help him to success in practice and constitute a valuable asset in his business; he will be very likely to desire to preserve the value of the asset.

The lawyer who is to practise successfully must indeed be well up in the existing system of procedure, but if he is to become a valuable worker in the movement for simplification he must have a scientifically trained and educated mind which he is willing to devote to the subject and he must also have the desire to accomplish the result. It becomes, therefore, really a question of scientific education and of ethics. The lawyer who has received a thorough training in the fundamental principles governing scientific and simple legal procedure, and who has a high code of legal ethics will stand for a simplified procedure. He will look upon procedure as a machine made to *serve* the law; not to *circumvent* it.

Can the law school effectively teach these two things to its students, namely: (1) The fundamental principles governing scientific and simple procedure, and (2) a high standard of legal ethics?

I would not be misunderstood here. I recognize that there are numerous gentlemen here actively connected with law schools who are much better informed than I am as to what the law schools of the country are now doing along the lines suggested. I am not assuming to criticize the present methods of any law school. It may well be that many of them are now accomplishing all that can be accomplished in this direction, but I assume, from the fact that the question is presented for discussion, that there may be some room for improvement in at least some of the schools, and hence I make bold to suggest these two propo-

sitions: (1) Every law school should give its students a course in scientific simplified procedure, or "ideal procedure," if you choose; (2) every law school should lay greater stress than it does now upon legal ethics and especially upon the fundamental ethical proposition that the lawyer is a minister of justice, and not his client's hired man.

In the first suggestion I include a scientific treatment of the question of the unification of our systems of courts, so as to prevent failures of justice on account of jurisdictional mistakes, as well as consideration of the rules of procedure themselves, and all other questions legitimately connected with simplicity and efficiency in the administration of the law.

I am quite well aware that this is a difficult field. Men who can handle this subject understandingly and scientifically are not frequent. He who attempts it should preferably, I think, be a man who has had actual experience in the practice, and certainly he must be a student and a philosopher as well. But the subject is by no means entirely new; there is considerable literature already at hand bearing upon it, among which may be mentioned Professor Pound's very illuminating paper read before the Illinois Bar Association in 1910, as well as the English and German judicature acts of recent years. It seems to me very certain that law students who go through a course of lectures on the fundamentals of ideal procedure given by a competent instructor for whose abilities they have respect, cannot fail to be impressed with the need of simplification of our present codes. Such a course should be fair and philosophical, and not merely captious and critical; it should be constructive and not merely destructive, giving due credit to the useful and desirable points of present systems, and by no means advocating change for the mere sake of change—in fine, it should aim to make its students careful builders and not mere ruthless iconoclasts.

The second suggestion, namely, that greater stress should be laid upon the ethical aspect of the practice of law, may seem trite, if not actually of the goody-goody variety, yet I venture to ask consideration of the matter for a moment.

I have no doubt that practically every professor in our law

schools gives more or less instruction in legal ethics incidentally in connection with the subject which he teaches; certainly he ought to do so. This is all well and good, the more of it the better. But I think the impressions thus given are apt to be transitory. A course of lectures devoted exclusively to legal ethics would be, in my judgment, a very useful thing in every law school; a course not given by a professor in the regular faculty, but rather by some man who has attained eminence at the Bar or upon the Bench. It is not that the professor may not prepare a better course than the lawyer or judge, but that the words of the latter are quite sure to make a deeper impression on the mind of the student than the words of the professor, whose business it is to teach.

A sermon delivered by an eminent layman will frequently carry more weight than one delivered by a preacher from the very fact that it is not the layman's job, and hence what he says has more the appearance of being the spontaneous and unbiassed language of the heart.

In these days of marked and general decadence in religious beliefs there is greater necessity of ethical teachings than ever before. The profession is overrun with mere moneymakers, who regard it only as a business by which money is to be made, with little or no thought of the quality of the means used. We greatly need many more of the lawyers who regard the profession as a ministry in the temple of justice, for they are the men and the only men who will desire to make the procedure simple, prompt and effective.

And so I return to the proposition with which I began, namely, however simple a code of procedure we may secure, we shall not secure simplicity in its administration until we have a Bench and Bar educated in the fundamental principles of simplified procedure, and possessing a high standard of professional ethics.

If we must depend on the law schools for the education of our lawyers, we must be entitled to demand that their courses of study include effective instruction on these two lines. In no other way, I think, can we expect to have a Bench and Bar able and willing to co-operate effectively in the movement for simplified legal procedure.

THE IMPORTANCE OF ACTUAL EXPERIENCE AT THE BAR AS A PREPARATION FOR LAW TEACHING.

BY

HARLAN F. STONE,

DEAN, COLUMBIA UNIVERSITY LAW SCHOOL.

At the meeting of the Association of American Law Schools last year I took occasion to refer to what seemed to me the rather obvious fact that too many of our young men just out of law school were taking up the important work of law teaching exclusively, without having had actual experience in practice. As a general proposition there would seem to be nothing particularly heretical in the assertion that one who assumes to teach the principles of his art should have had some experience in the application of them. Quite to my surprise, however, my rather casual observations elicited more comment and criticism than other parts of my paper which seemed more open to question. It was this fact which doubtless suggested to your committee the desirability of continuing the discussion at this meeting and resulted in the request from them that I read a paper on this subject.

That a very considerable number of the growing class of law teachers are recruited directly from the graduating classes of our law schools is, I believe, a matter of common observation, about which there can be no serious dispute. It does not require extraordinary powers of observation, or very long experience in law school affairs, to ascertain that this practice is due to two causes. In the first place, it has been steadily encouraged by some of our leading law schools which have pursued the policy of recommending members of their own graduating classes for teaching positions in other institutions. Whatever may have been the motive for this policy, there was formerly some justification for it. The modern system of legal education has been

one of extremely rapid development. The day is not long past when the law school seeking a teacher familiar with modern methods of instruction must perforce take a young law school graduate without much practical experience, or forego its selection altogether. That justification, however, no longer exists. With 116 law schools in the country, of which a substantial number are members of the Association of American Law Schools maintaining the standards required by that Association, a rapidly growing percentage of practicing lawyers has had the benefit of thorough law school training, and there is therefore no lack of young practitioners who possess the training as well as the capacity for law teaching. In the second place, the demand for the young graduate law teacher has not only been sustained, but has been increased, not, I believe, for any sound educational reason, but for a specious economic one—because he is cheap.

The development of education in this country presents some strange inconsistencies. With lavish generosity both public and private means have been devoted to the upbuilding of our educational system. Almost countless millions have been spent in buildings, libraries and equipment, splendid monuments to their donors, which are gratifying alike to the popular desire for educational progress and to our national pride. For every material equipment of our educational institutions we have spent our money with an extreme of generosity which can only be contrasted with the extreme of penury with which on a whole we have compensated the educational services of our teachers. With the notable exception of a few educational institutions economies in the educational budget begin and end with the salaries of teachers. This policy of exalting the incidental at the expense of the essential is producing its legitimate consequences. With changes in economic conditions which are now taking place, we are rapidly approaching a condition such that the teachers of the country must be selected very largely from practically two classes: First, the limited class whose members combine some capacity for teaching with the possession of independent means and who are able, therefore, to take up the career of the teacher

because of its inherent merit and attractiveness, irrespective of its financial return, and second, from those who are not competent to make a success in other enterprises, and who justify in some measure the aphorism attributed to Bernard Shaw, that "those who can, do; those who cannot, teach." The experience of our law schools does not differ from that of other educational institutions. In the first place, many of the university law schools, though financially prosperous, are for reasons of policy compelled to maintain a meager scale of salaries in order to conform to the standards set in other departments of the university. Then, too, the unnecessary duplication of work by the multiplication of law schools has compelled distinctly undesirable economies in the matter of salaries. Every state, every large city, and, indeed, it would seem, almost every cross-roads must have its law school. Sections of the country which might be well served by one good law school must needs be poorly served by many. The result is a steadily increasing demand for law teachers without experience in practice, not because they have not had experience, but because their selection enables the law schools to save money, or rather to maintain themselves with a wholly inadequate expenditure. Almost every mail brings to me an inquiry from some law school, asking me to recommend a law teacher, preferably just out of law school, "because we cannot pay over \$1500 or \$1800 a year." The young practitioner who is becoming established in his practice, with good prospects of success, cannot be induced to give up his practice to take such a position. To the young law school graduate who perhaps has paid his way through the law school by tutoring, tending furnace or washing dishes, this offer naturally seems more attractive.

No school is to be criticised, of course, for economies, if its economies be not at the expense of the educational service which is the sole justification for its existence, but the question may be fairly raised whether many of our law schools, in saving money by filling teaching positions in a professional school with men who have had no professional experience, are practicing wise economy. There is, so far as we can observe, nothing peculiar

about the art of law teaching, as distinguished from other kinds of professional training, which should render practical experience a detriment to successful teaching. It would seem, therefore, that the burden clearly rests upon those who counsel the employment of the inexperienced in preference to the practitioner, to justify it by pointing out its advantages as an educational policy. I know that it has been suggested that experience in practice tends to destroy the teacher's capacity for idealism in law teaching. This suggestion, however, has been directed rather toward the practice of calling men of mature years to teaching positions, merely because they have had successful careers on the Bench or at the Bar. Teaching, of course, like any other profession, ought generally to be taken up before middle life, before the mental habits become fixed and the mind begins to lose its capacity to adjust itself to new requirements and conditions. There can be no greater error than the belief which seems to be current in some parts of the country, that the successful law faculty can be assembled from successful judges and members of the Bar, who have had no experience as teachers and possess little or no knowledge of the progress made by the modern law school in methods of instruction, merely because they have been successful in their profession. It should be clearly understood that nothing I may say in this paper is to be construed as in any sense advocating such policy. Whether, however, the teacher of law, taking up his career as a teacher before middle life, should not have had experience in practice, or at least whether he should not continue his practice concurrently with his teaching for a time, is quite a different question, which I believe has a distinct bearing on the efficiency of our law schools.

I do not understand that there is any substantial opinion that experience in practice is detrimental to the law teacher, assuming that he possesses in other respects the teaching gift. The fact is, the teacher is born, not made exclusively by training or environment. No kind or amount of training or experience will make a man a successful law teacher unless he possesses the gift. The point I would emphasize in this paper is my firm belief

that the man who would become a law teacher and who possesses the talent for stimulating intellectual activity in others, will, as a law teacher, possess greater power, exert a wider influence and render a more useful service to his students and to his profession, if he has had experience in practice, and there is always the danger that if he takes up his teaching without such experience, that he will lack the intellectual balance which should come from a practical knowledge of his profession and he will inevitably be a stranger to its sentiments and traditions.

We have been developing legal education in this country very much as though the law were a pure science, so that with the authorities before us and with the facts in any given case ascertained, we can, by a system of inductive reasoning, proceed unerringly to the correct result, which should be the law of the case. In an ideal system law should, and perhaps could, be purely scientific and logical, but the fact is, as the law student discovers, when he begins his practice, logic oftentimes yields to practical considerations, which with the court outweigh his most logical arguments. As a student I remember that the New York rule that a factor is treated as a fiduciary as to the proceeds of the sale of merchandise committed to his care, irrespective of his methods of dealing with them or the state of his accounts or the time and manner of settling them, seemed to me peculiarly unscientific, and to merit all the criticism that we poured out upon it. A few years experience in a busy office which was frequently called upon to enforce the liability of consignees of merchandise, threw an entirely new light on the subject, which leaves me as a practitioner and as a teacher of law, quite content with the rule. I might multiply similar examples with which any practicing lawyer is familiar, such as the rule in force in many jurisdictions that a mortgage upon a changed stock of goods left in the possession of the mortgagor—giving him power to re-invest the proceeds in other goods, is void, or the New York rule as to the tentative quality of trusts of saving bank deposits. It may be that the accepted views on these subjects are not logically correct, and that these rules are not in all respects scientific, but the important point is that with experi-

ence in practice comes a new point of view—the point of view of the legal profession generally. Can it fairly be said that we are doing our duty to our students if we have not given ourselves sufficient contact with the profession by actual experience in practice, to understand that point of view and in some measure to impart it to them?

I yield to no man in my enthusiasm for the law school which devotes itself primarily to training its students in the theory of law from the viewpoint of principle and its historical development rather than in the mere memorization of rules and precedents. In this distinction is one which may account for all the difference between the real lawyer and the mere time-serving hanger-on of the profession. The law school should train its students to search for the underlying principle and the reason for it historically which lies back of every rule and every maxim of the law, for although law may not be purely logical or a science, nevertheless, the scientific method of study and investigation is the touchstone which yields golden results in law study. But our aim must be to make such training of practical value to our students, who, after all, are not being trained as legal historians or writers on jurisprudence, but to become practitioners of their profession. Our speculation, therefore, must not become too attenuated and our field of investigation should be marked out by one who knows the kind and in some measure the limits of the experience for which the young lawyer is destined. I think in this connection that it is perhaps a fair question whether the law school might not direct its attention with profit toward giving more training in the application of legal principles. For example, one might read all the cases and become thoroughly familiar with the principles relating to the law of wills without understanding the practical problems which present themselves in drawing a will, or knowing, for example, what power it is expedient to give an executor or testamentary trustee. Similar observation may be made with respect to the preparation of contracts, mortgages, certificates of incorporation, etc. This kind of knowledge will, of course, be “picked up” by the young lawyer in his practice, but in a desultory and unsystematic

way. It is possible to impart much of this knowledge in a systematic, not to say scientific, way in the law school as an incident to the substantive law courses to which it relates, provided, however, the instructor has had experience in practice and has become familiar with the usages of the profession. That one who had never had experience in practice could accomplish much, if anything, in this direction may be doubted, since the requisite knowledge will not be found in the books, but may be gleaned only in the school of practical experience.

Then, too, in a purely logical and scientific system each fact upon which the application of a principle of law depends must necessarily possess its own peculiar weight and value. The ability to assign to each fact its proper weight and value which is essential in determining what is the true rule of law in a given case comes in full measure only with practical experience. Can, for example, the law teacher who has never seen a bill of lading (and I regret to say there are such) or who is unfamiliar with current usages with respect to these documents, teach or advise with respect to the nature and extent of their negotiability or (what is becoming an important function of the law teacher) participate in the preparation of legislation affecting that subject? Would not the lawyer, other things being equal, who had had actual experience in applying to and securing from the courts preliminary injunctions in equity causes be better qualified to teach the principles of preventive jurisdiction of equity than a man who had never prepared or perhaps seen a set of motion papers on such an application? This is perhaps only another way of saying that the law teacher ought to possess a good deal of practical wisdom, the kind of wisdom which comes of knowledge of men and experience of affairs as well as of the technical side of practice. If so, I doubt whether any one will dispute the correctness of the proposition, and certainly there is no kind of experience better adopted to the acquisition of such wisdom than the active practice of the law.

It is a commonplace saying that one can acquire an adequate knowledge of substantive law only by knowing thoroughly its pleading and procedure. It is for this reason that a thorough

study of common law pleading and procedure is of the first importance in any well-arranged law school curriculum. When the student has become familiar with the pleading as it existed at common law, he not only has a good introductory knowledge of substantive law, but he knows at first hand the reason for the peculiar form and application of the rules of substantive law. Despite the numerous attempts at simplification of procedure our procedure has in actual practice become more complicated than it was at common law, although possibly less technical and with the penalty for error less severe. Our law schools have conspicuously failed to train adequately their students in procedure, and because of inherent difficulties it may be doubted whether beyond imparting the underlying principles of pleading and practice the law school can give the student as much aid in this direction as actual experience in an office. Frankly recognizing this fact, all the law schools in the State of New York have united in requesting our Court of Appeals to require that candidates for admission to the Bar shall supplement their three years of law school with at least a year in an office before presenting themselves for Bar examination in pleading and practice—a recommendation which was concurred in by the Board of Bar Examiners and the New York County Lawyers Association. This important reform has not yet been accomplished. The result under existing conditions is that the law school graduate and often the young lawyer is conspicuously wanting in one branch of training which is absolutely essential to a comprehensive understanding of substantive law and which is essential to making him a well-rounded lawyer. No law school graduate, when he leaves the law school, is well grounded in the practice of New York for example, and the same statement is probably true with respect to most of the other states. To insist that a man with this limited experience has had the requisite training to fit him to teach substantive law, to say nothing of practice courses in a professional school, is to ignore one of the most fundamental principles of legal education. Yet we have accustomed ourselves to ignoring it until some of our educators seem surprised that any of us should raise his voice in protest against it.

But it is not alone on the intellectual side that experience in practice makes a valuable contribution to the training of the law teacher. The law teacher has indeed missed his calling who has nothing to offer his students but the solution of the purely intellectual problems of the law. Today it is more than ever incumbent on the law teacher to inspire his students with the professional spirit and to transmit to them something of the ideals and traditions of the profession.

To the teachers of law the legal profession has committed its future more than to any other class in the community. It is no exaggeration to say that the ideals of the profession and its proficiency as a whole will in the next generation be more influenced by the law schools of the country than by the courts and the individual members of the Bar. That this is so is due primarily of course to the sweeping changes which have taken place in methods of legal education during the past generation. The lawyer of a generation ago received his training in the law office. There he gradually grew into his profession, absorbing unconsciously from his environment something of the professional spirit and the ideals and traditions of the law. Whatever may have been the faults of this method of training, and they were numerous and their number has increased under modern conditions, it was at least extremely practical in character, and the fledgling lawyer acquired in the hard school of experience something of the lawyer's point of view even before his admission to the Bar.

Today the lawyers of the country are acquiring their legal education in its 116 law schools, and these are becoming more and more the dominating influence in shaping the minds and characters of the members of the Bar. A few years ago most of them occupied only a few months or a year of the student's time. Now there are few schools and none worthy of the confidence of the profession which do not absorb three years or more of the student's life in preparing him for the Bar. Taken at the age when he first experiences the zeal for professional training, when his mind is flexible, at just the period when his habits of thought tend to become fixed, and subjected to the thorough-going training of

the law school, it would be strange indeed if the young lawyer did not bear the indelible impress of the law school in mind and character.

But there are other reasons for the increasing professional influence of the law school which are dependent on changes taking place in the profession itself. There is a growing lack of that coherence and solidarity in the profession which are essential to its proper *esprit de corps*. The greater concentration of professional business in the large cities, as well as the normal growth in numbers of the profession, has resulted in an enormous increase in the number of lawyers in our large cities. Anything like personal acquaintance among the 12,000 or more members of the New York City Bar is obviously impossible, to say nothing of the cultivation of those professional and social relations which are essential to the perpetuation of professional ideals and tradition. The same condition exists, only in less degree, in each of the 110 cities of the United States having a population of 50,000 or more. It seems inevitable, therefore, that the law school should become more and more the common point of contact among the members of the profession and that upon it will fall more and more the obligation of transmitting to the younger generation of lawyers the ideals, sentiments and traditions, the professional spirit, in short, of those who have gone before.

How can the law schools render this important service to the profession and to the community at large if they persist in the policy of filling their faculties with teachers who have had no real contact with the profession and have learned nothing by actual experience of its sentiments and traditions? Each year some hundreds of men are admitted to the Bar in New York whose practice, largely in police and other minor courts, will never bring them into intimate association with those members of the Bar who give it stability and sound character. There are some hundreds more who will have better association, but to the development of whose character and to whose relationship with practice no sound lawyer will ever give a moment's attention. This is due not only to the great numbers of the profession in

our large cities, but to the organization of the modern law office which sacrifices the personal relation between the older and younger members of the Bar to office organization and efficiency.

This is a heavy burden to cast upon the future well-being of any profession and I regret to say that it seems to me that the profession is showing the effect of it, not only in New York, but throughout the country. Nor is it alone in the lower strata of the profession that there is a want of fidelity to professional ideals, or rather a want of realization of them. A survey of the history of the legal profession in this country compels the reluctant conclusion that the influence and prestige of the Bar are on the wane. I do not believe that this is a permanent condition. Indeed, it cannot be if the law schools exercise the influence on the profession, which I believe the next 25 years will see them exercise. This condition is doubtless due to complex causes, but among them will be found the failure of the profession as a whole to lay firm hold on the ideals which influenced the Bar of the country in the earlier days, and especially the failure to cultivate the professional spirit which emphasizes devotion to the skill and integrity of the profession above its material gains. The spirit, in other words, which makes the lawyer the skilled and wise counsellor, but never the servant of the client.

We are only beginning to realize what a tremendous responsibility this places on the law schools and the splendid opportunity which it opens up for them. The opportunity for the young lawyer to come into intimate contact with a group of law teachers, who are real lawyers by experience as well as training, who are presumably idealists, since otherwise they would not have sought the teachers' career, who love and honor their profession, and, finally, who know from actual experience something of the demands which the practice of law makes upon the lawyer, is of inestimable value to him and to the future of the profession.

The professional law school ought, of course, to possess the scientific spirit which exists in the scientific school or in the college, or at least so much of the college as devotes itself to real scholarship. (Sometimes I am prone to think that our colleges

present more the aspect of social and athletic clubs than of real educational institutions.) But they ought to possess a great deal more. They ought to have the professional atmosphere and be permeated with the professional spirit. They should be centers of professional influence in close contact and in harmony with the Bench and the Bar.

But this is difficult, if not impossible, with a corps of teachers whose life experience has been practically confined to the college and law school and whose instructors in turn have had only academic experience. How can there be doubt of the wisdom of the policy of doing everything that may be done to bring the law school into closer relations with the legal profession, to make the law schools themselves centers of professional influence and disseminators of professional ideals? Yet we are now engaged in a process of law school isolation. We are making them, I will not say, too academic or too scientific, but too little professional, and we will perpetuate this isolation from generation to generation unless we insist as a general rule that our teachers of law shall have had some general experience in practice.

Just what should the law school do to secure the law teacher best equipped by training and experience to take up the career of a teacher of law? Obviously the first step is for the law school to offer sufficient salary to attract the man of talent, who has a future in his practice, to give up his practice and ultimately to devote himself exclusively to law teaching. I do not mean that the law school must compete in the matter of salary with the best or even the better professional incomes. There are obvious advantages in the career of the law teacher, coupled with opportunities for important public service, which compensate within reasonable limits for the loss of the income which may be earned in practice. But on the other hand, the practitioner cannot be expected to compete with the young man just out of law school in the matter of smallness of salary.

The law school which has the proper regard for its own important function and which would justify its right to exist at all should therefore offer a salary sufficient in amount, when coupled

with the advantages of the law teacher's career, to attract to it the benefits of practical experience as well as the natural gift of the teacher and adequate professional training. My own observation is that generally such a salary, if the best results are to be obtained, ought to bear some rather close relation to the salaries of the judges of the highest appellate court in the state where the school is located.

But with adequate provision for salaries, the selection of a law teacher who has had experience in practice is still a delicate matter. He must, of course, possess what I have termed the teaching gift. No amount of experience or training, no ability for legal authorship, however great, will atone for its absence. Its presence will be revealed only by the test of actual experience. This fact does not lessen the perplexities of the law school administrator who is seeking a law teacher who will be willing to abandon a law practice for the uncertainty of an untried career.

A helpful expedient which possesses the double advantage of fairness to the law school and the teacher is that adopted in some schools of engaging the services of a young practitioner, to give one or two courses in conjunction with his practice until he has demonstrated his capacity for law teaching. This plan can be adopted with advantage, especially in the larger communities. In the case of schools located in smaller communities there will be no lack of members of the Bar in other localities who have had experience in practice and who have capacity to teach law, demonstrated perhaps in some other law school, provided adequate salaries are paid.

Ultimately, when with experience in practice he has become a well-rounded lawyer, he should devote himself exclusively to law teaching, at least so far as active practice is concerned, as he undoubtedly will do if he has the teaching spirit and the salary is fairly adequate. I say exclusively because I believe the profession of law teaching is not only worthy of a man's best efforts but under conditions which exist or should exist in the law school doing its duty by the profession and the community at large, his best service is absolutely demanded.

This is the ideal method of developing a faculty of law teachers, but my belief in the importance of having a faculty very largely made up of lawyers who have had experience in practice is so firm that I would make some concessions, when needful to obtain it. I would be willing to have some members of a law faculty actually engaged in practice, provided, of course, they had had adequate training, possessed the teaching spirit and were devoted to the best interests of the law school. This in my judgment would be much preferable to a faculty made up wholly or largely of teachers who had had no experience in practice.

In dealing with the subject I am quite appreciative of the difficulty of generalizing upon any subject as complex as the capacity of individuals to teach a difficult and complicated subject like the law. I am aware that this or that example of a brilliant law teacher who has had no experience in practice will be cited. To this I have two answers. First, I have known such, but I have never known of any whose ability as a teacher and whose capacity for service would not have been increased by experience in practice. Second, I am not laying down any inexorable rule to be followed blindly under all circumstances. I would not even say for myself that I would not choose a teacher who has had no experience in practice. Personality, individual talent and capacity must always be of primary importance in making a selection, and they *may* be allowed to outweigh practical experience in a given case. What I have sought to point out is the unwisdom of a pronounced tendency in the selection of law teachers. What may be justifiable in a given case may be unjustifiable or even pernicious as a general practice. That is, I believe, the exact situation with respect to the tendency to select law teachers who are without experience in practice. Whatever justification there may be for it in individual cases I am convinced that as a practice it is bad, and I hope that we may ultimately see the general adoption of a distinct policy in favor of the selection of teachers who have had experience in practice.

THE RECENT MOVEMENT TOWARD THE REALIZATION OF HIGH IDEALS IN THE LEGAL PROFESSION.

BY

CHARLES A. BOSTON,

OF NEW YORK.

Last year I attended the meeting of one of the bodies devoted to the improvement of legal education and listened with interest to the reading of a paper upon some of the philosophic aspects of the general subject, which I might name but will not. At its close I overheard a critic who suggested that it would interest the audience more and interject more spirit into the occasion if there should be a debate upon a subject of real practical moment, in which there might be room for an honest difference of opinion, such as the advantage of teaching Admiralty Law in the University of Oklahoma, having due regard to its geographical situation and topographical condition.

I doubt whether my subject would successfully meet this criticism, but if not I am not responsible for the selection of either topic or speaker. Nor am I here to expound theories, but merely to state facts, from which you can draw your own conclusions. Even the facts may lack the inspiring features of excitement, but as collated they may have some element of surprise. The surprise lies in the local interest within the profession, and the national interest outside of the profession in the moral rehabilitation of some branches of legal practice and some legal practitioners.

When I undertake to treat any subject of modern application I am prone to start some distance back in human history, in order to differentiate the ancient from the modern, and to see how much is really a recent innovation.

Taking this course with the ethical ideals of the Bar, I find that they are an ancient inheritance, and of widespread example.

And it must of necessity be so, for not only does the Bar now consist but it always has consisted in the main of specially educated and trained men of more than average intelligence and of presumably average morality, and it has also been evolved as an essential part of the machinery of justice. Considering what the object of justice is, and the only excuse of its machinery for existing, it would indeed be a surprise if the majority of these ministers of justice did not entertain a proper conception of their high function and act accordingly, notwithstanding the fact that many writers, and particularly novelists, have selected as one of the best types of the contemptible moral malefactor, a lawyer, more or less skilled in his profession.

I need not asseverate to this audience that the vast majority of members of all Bars are conscientious, well-meaning, highly ethical men, truly appreciative of the part which they should perform in a system of justice, and performing it well according to the best traditions of the profession.

In the United States, however, until rather recent times, it was the traditions of the profession, and the moral tone of the community, which dictated in practice the ethical ideals of the practitioners of law. And too often the individual practitioner resorted to conduct which was in itself contemptible according to all right standards, and which reflected contempt upon any system of justice which would tolerate it. Too often, also, and such is still frequently the case, the individual's necessity was permitted in courts and among his professional brethren to obscure the true objects for which the profession and the privileges of the individual offender exist. I might cite as an example one notorious firm whose name became almost a household word throughout the United States, and as such it was certainly not a synonym for all that was ideal in the administration of any system of justice. It thrived and secured wide advertisement by methods and practices which a perhaps equally well-known prosecuting attorney declared had been a stench in the nostrils of his community for a quarter of a century or so.

But why should anything so publicly proclaimed remain a stench for so long a time, and particularly under guise of con-

nection with a system of justice? The answer is perfectly plain: The indifference of the judiciary and the Bar.

I have had brought to my attention a case on the other side of the continent, where it has been said, whether truthfully or not I cannot say, that no one in an entire county, and not even a local bar association which has been appealed to, will consent to take action against an attorney who has collected and retained money without accounting for it to a client. Again in a north-eastern state I am told that the grievance committee of a state bar association has recently found opportunity for activity in cases where county bar associations would not proceed against their members for unprofessional and illegal conduct.

It is undoubtedly true that the majority of the Bar are thoroughly worthy of confidence, and dishonorable members are comparatively rare, but still, in the country, there have been those who have withheld money, and have been piteously ignorant, and in cities numbers who utilized the technical rules of law and their skilled and educated craft and artifice to become practically beasts of prey upon innocent or ignorant or wrongdoing members of the community.

Such conditions, of course, have no justifiable connection with any system of justice; they are abhorrent to it and just so long as any system permits it that system is inefficient, fails of its purpose, and demands reform.

In *Matter of Percy*, 36 N. Y., the court said:

"The court may and ought to cause the charges to be preferred whenever satisfied, from what has occurred in its presence or from any satisfactory proof, that a case exists where the public good and ends of justice call for it."

In this case the court took the view that general bad character or misconduct would sustain the proceeding, saying:

"It would be an anomaly in the law to make good moral character a prerequisite to admission to an office of a life tenure, while no provision for removal is made in case such character is wholly lost."

In another case, known to me but not reported, a federal court of its own motion, and after a hearing, disbarred for general incompetence a lawyer who had been admitted from the state Bar,

not for any particular wrongdoing but because it did not regard him as competent to advise litigants.

If the courts should of their own motion take cognizance of incompetency or conduct in a lawyer interfering with the proper accomplishment of the purpose for which courts are established and lawyers licensed, there would be less complaint, and less ground of complaint.

A step leading in this direction was taken when the American Bar Association appointed a committee to formulate canons of ethics for the guidance of members of the American Bar. This proved an activity which has produced beneficial results of which it is my purpose to speak to you.

But I have said that our present ideals are not modern; the American Bar Association merely emphasized and expressed in new language to some extent some very ancient ideals.

The committee of this Association in its several reports collected and published the Code of Christian V. of Denmark and Norway, promulgated after fifteen years of preparation in 1683; the lawyers' prayer from the pen of Dr. Samuel Johnson in 1765; the fifty resolutions in regard to professional deportment which David Hoffman, of the Baltimore Bar, framed early in the nineteenth century for his students and published in his "Course of Legal Study"; the oath administered to lawyers in Germany on admission to the Bar of the respective monarchical states; the oath for advocates prescribed by the laws of the Swiss Canton of Geneva; the lawyers' oath in the State (previously in the Territory) of Washington and the Louisiana Bar Association's Code of Ethics. It also compiled as the prototype of the canons of ethics, subsequently approved by the American Bar Association, a composite code made up from the codes previously adopted by the several states of Alabama, Colorado, Georgia, Kentucky, Maryland, Michigan, Missouri, North Carolina, Virginia, Wisconsin and West Virginia.

The work of Sharswood, in his lectures upon legal ethics before the law school of the University of Pennsylvania, is certainly well known to all of you, at least by repute. I might refer to other authors who have written for a limited audience upon legal

ethics and especially to the "Law Studies" of Samuel Warren, the celebrated author of "Ten Thousand a Year," who in this novel by his firm of "Quirk, Gammon and Snap," and in *Oil! Gammon*, has eternally celebrated one type of disreputable lawyers.

But Warren's lectures before the Incorporated Law Society of England on the moral, social and professional duties of attorneys and solicitors are unfortunately not widely known among lawyers in this country.

Nor is a high conception of the ethical standards of a lawyer confined to America, or to England. It is probably inseparable from the office, wherever it exists.

We find that in Rome these concepts existed. It was there required that an advocate should render professional services when requested unless there was just ground of refusal; that he should prosecute or defend with diligence and fidelity even against the emperor; that he should not be blind or deaf; and should be of good repute; that he should not have been convicted of an infamous act; that he should not be advocate and judge in the same cause, nor be judge in such cause even after the termination of his advocacy; that after judicial appointment he should not practise as an advocate; if advocate in a cause he should not be witness therein; that he should use the utmost care and attention; that he should be liable for the damage caused by his fault; that his concept (or pleading) should contain no matter punishable or improper; that he should explain the law to his clients, and warn them against transgression and neglect; that he should advise them of the lawfulness or unlawfulness of their cause of action; that he should not undertake an unjust cause, or be used as an instrument of chicanery, malice or other unlawful action; that he should abstain from invectives against the judge, his adversary or opponent, both client and advocate; and that unpleasant truths, if necessary, should be mentioned by him with the utmost forbearance and in moderate language; that he should not betray his client's secrets, nor make improper use thereof, and he should preserve them inviolably, and should not testify concerning them—his punishment was the payment of

all damages, a fine, or imprisonment, or suspension or removal; and the severest penalty was meted for the betrayal of his trust for the benefit of the opposition. At times he was forbidden to receive any reward; or to receive any prepayment; at times his compensation was regulated by law, in the absence of agreement; contingent fees were prohibited under penalty of revocation of license; and a conditional larger fee was prohibited unless the agreement was made after the conclusion of the cause; he might receive an annual salary, had a retaining lien and could enforce redress by petition to the court.

In France, from the 14th to the last year of the 18th century, members of the Bar constituted an order of nobility, and were held to strict conceptions of proper conduct similar to those of Roman lawyers. Sharswood stated that in his day, although the French law permitted a lawyer to sue for his fees, one who did so would be stricken from the roll of the Paris Bar.

In Germany it is said that associations of lawyers styled *Anwaltskammern* carefully scrutinize the conduct of practitioners of law and hold them to a high measure of responsibility, keeping strict watch that no lawyer dishonors his calling.

The late Thomas Leaming of Philadelphia, in his charming book, "A Philadelphia Lawyer in the London Courts," tells at some length of the activity of the General Council of the Bar and of the Statutory Committee of the Incorporated Law Society in promulgating their opinions upon professional ethics as guides to the respective branches of the profession which they supervise. Anyone interested in the subject can find their decisions collated in the "Annual Practice," the English lawyers' *vade mecum*. So we see that there is nothing new or local about the high concept of a lawyer's ethical duties as a member of his profession; and it was high time that, with the growth of a heterogeneous population, and the increase of commerce and the money making spirit among our people, some influence should be aroused which should point out the traditional standards, formulate them into a concise statement and make an effort to have this brought forcibly to the attention of the American Bar.

This the American Bar Association did at its meeting of 1908,

after the subject had been under consideration for three years. It appears from the report of the committee that codes had been adopted by state Bar associations as follows: Alabama, 1887; Georgia and Virginia, 1889; Michigan, 1897; Colorado, 1898; North Carolina, 1900; Wisconsin, 1901; West Virginia and Maryland, 1902; Kentucky, 1903, and Missouri, 1906. As early as 1863 seven brief canons were adopted, as a lawyers' oath, in the Territory of Washington, and subsequently in California and Oregon. A similar code was incorporated into the charter of the Louisiana State Bar Association in 1899; and committees on the subject were appointed in 1907 by the bar associations, state or local, in Illinois, Kansas, Massachusetts, Montana, New York, Ohio, Pennsylvania and Vermont. Since the adoption of the canons by the American Bar Association in 1908 they have been approved, with or without minor changes, by at least twenty-six state associations and by the Boston and Chicago Bar Associations.

This widespread interest in the subject would be encouraging if it were only formal, and merely consisted in giving a vote of approval to the American Bar Association's work, thus calling it to the attention of members of the Bar in the several states. But it has been more than formal; for it has provoked discussion and manifested interest. Coming from New York, as I do, I know you will permit me to dwell at some length upon the recent activities in my own adopted state.

The New York State Bar Association in 1909 not only adopted these canons without substantial change, but they requested the Court of Appeals to incorporate into its rules a provision requiring an applicant for admission to the Bar to state under oath that he has read these canons, and has faithfully endeavored to make himself acquainted with them, and that he will endeavor to conform his professional conduct thereto; it also requested the State Board of Law Examiners to examine upon these canons for admission to the Bar, and the faculties of law schools to teach the subject of professional ethics. Shortly afterward, the Court of Appeals changed its rules to provide:

"Every applicant shall be given and required to pass a satisfactory examination in the canons of ethics adopted by the

present more the aspect of social and athletic clubs than of real educational institutions.) But they ought to possess a great deal more. They ought to have the professional atmosphere and be permeated with the professional spirit. They should be centers of professional influence in close contact and in harmony with the Bench and the Bar.

But this is difficult, if not impossible, with a corps of teachers whose life experience has been practically confined to the college and law school and whose instructors in turn have had only academic experience. How can there be doubt of the wisdom of the policy of doing everything that may be done to bring the law school into closer relations with the legal profession, to make the law schools themselves centers of professional influence and disseminators of professional ideals? Yet we are now engaged in a process of law school isolation. We are making them, I will not say, too academic or too scientific, but too little professional, and we will perpetuate this isolation from generation to generation unless we insist as a general rule that our teachers of law shall have had some general experience in practice.

Just what should the law school do to secure the law teacher best equipped by training and experience to take up the career of a teacher of law? Obviously the first step is for the law school to offer sufficient salary to attract the man of talent, who has a future in his practice, to give up his practice and ultimately to devote himself exclusively to law teaching. I do not mean that the law school must compete in the matter of salary with the best or even the better professional incomes. There are obvious advantages in the career of the law teacher, coupled with opportunities for important public service, which compensate within reasonable limits for the loss of the income which may be earned in practice. But on the other hand, the practitioner cannot be expected to compete with the young man just out of law school in the matter of smallness of salary.

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But with adequate provision for salaries, the selection of a law teacher who has had experience in practice is still a delicate matter. He must, of course, possess what I have termed the teaching gift. No amount of experience or training, no ability for legal authorship, however great, will atone for its absence. Its presence will be revealed only by the test of actual experience. This fact does not lessen the perplexities of the law school administrator who is seeking a law teacher who will be willing to abandon a law practice for the uncertainty of an untried career.

A helpful expedient which possesses the double advantage of fairness to the law school and the teacher is that adopted in some schools of engaging the services of a young practitioner, to give one or two courses in conjunction with his practice until he has demonstrated his capacity for law teaching. This plan can be adopted with advantage, especially in the larger communities. In the case of schools located in smaller communities there will be no lack of members of the Bar in other localities who have had experience in practice and who have capacity to teach law, demonstrated perhaps in some other law school, provided adequate salaries are paid.

Ultimately, when with experience in practice he has become a well-rounded lawyer, he should devote himself exclusively to law teaching, at least so far as active practice is concerned, as he undoubtedly will do if he has the teaching spirit and the salary is fairly adequate. I say exclusively because I believe the profession of law teaching is not only worthy of a man's best efforts but under conditions which exist or should exist in the law school doing its duty by the profession and the community at large, his best service is absolutely demanded.

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torney for the bankrupt, the furnishing of evidence by an attorney for a valuable consideration; an attorney's right to retain from collections disbursements made for his client; and the duty of a lawyer in case a client suggests taking advantage of an obviously unmoral act. Other questions have been submitted, but not yet acted upon, including the propriety of a law clerk accepting a retainer, upon his admission to the Bar, from a client of his former preceptor, to oppose the preceptor's claim for services rendered while the clerk was in his employ; and the propriety of an attorney for the guilty defendant in a divorce suit actively assisting at the subsequent wedding of the defendant and the correspondent in another state, though the decree of divorce prohibited the remarriage of the defendant.

The questions and answers of the committee are given circulation, not only in the "Year Book" of the Association, and by a copy kept in its rooms, but also in its monthly bulletin published in "Bench and Bar." A complete copy has been published in "Law Notes," and editorial mention has been made in "Law Notes" and the "University of Pennsylvania Law Review." On our mailing list, by request, are not only these publications, but the "Central Law Journal," the "American Law Review," the "Green Bag," the "Docket," the Library of Harvard University and the Library of the Yale Law School.

I have dwelt long upon an awakening in New York because, so far as I know, it is the most complete, including as it does recognition of the movement, and participation in it, by the State Bar Association, the two New York City Associations, the Court of Appeals, the State Board of Law Examiners, and at least some of the law schools. These are evidences which have come to my attention, and I do not know what may have escaped it. But similar activities have been reported to me from other states, and I do not know how much may have gone on of which I am not cognizant, and with which, consequently, I cannot acquaint you.

Not only have the states to which I have already referred adopted the codes or oaths or other regulations reported by the Committee of the American Bar Association, and at least 26

state bar associations approved, either more or less perfunctorily, the canons of the American Association, but some associations have adopted their own canons, presumably better suited to their own problems. One thing is to be said in commendation of this independent effort: it betokens an awakened local interest in the subject, which does not necessarily follow from a perfunctory indorsement of the American Association's canons. For this reason I am not thoroughly in accord with those who deplore any local independence in this matter for fear it may indicate a dissent from the canons of the American Association and a lack of harmony at the Bar upon principles of upright conduct.

On April 10, 1909, the Boston Bar Association adopted 34 canons of professional ethics without a dissenting vote. The most of them are stated to be taken verbatim from those of the American Bar Association. There is a separate canon against the assertion in argument of a lawyer's personal belief, elaborating the expression of the American Bar canon on this subject, and the canon on contingent fees is as follows, differing substantially from that of the American Association on the subject:

"A client may have a meritorious cause of action and yet have no other means with which to pay the fees of counsel. In such a case, it is proper for a lawyer to agree that he will make no charge for his services unless the litigation proves successful. To this extent, contingent fees may properly be contracted for. But it is not proper for counsel to contract with the client, either at the time he is retained or subsequently, that he shall receive for his services a certain fractional part or per cent of the amount recovered. The evil tendencies of such dealings with the client are plain. They tend to promote litigation and to degrade the practice of the law from an honorable profession to a money-getting trade; they invite a transaction between counsel and client in which their interests are opposed, in which the lawyer's knowledge and experience give him an advantage, and in which he is tempted to overreach the client; a speedy settlement may yield the lawyer a return out of all proportion to the labor expended, and this may tempt him to advise such a settlement for his own benefit, and against the real interest of his client; moreover, the lawyer becomes to all intents and purposes a party in the cause, which impairs his capacity to advise wisely, and exposes him to all the temptations to which parties are exposed to be unfair or dishonorable in the preparation and trial of their cases."

I am advised that since 1876 the Committee on Grievances of this Association has been active and efficient in its work, and has considered a large number of complaints, and has procured the disbarment of a considerable number.

In December, 1909, the Massachusetts State Bar Association was organized, and I am advised that its Grievance Committee has been active in dealing with territory not covered by the Boston Bar Association; that it has procured one disbarment, and a number of cases are now pending.

A correspondent, in writing to me on the subject of the difficulty of procuring disbarment, said of county associations in his state:

"These associations have not done very much in the way of considering complaints or instituting proceedings for the disbarment of unworthy members of the profession. One reason for this failure to institute disbarment proceedings has been the unwillingness of one lawyer to proceed against a brother lawyer, where the bar associations are somewhat limited in number, and the members of the same are personally acquainted."

And of the courts, he said:

"It has been found difficult to induce judges to disbar attorneys for converting to their own use money belonging to their clients, especially where restitution has been made even after disbarment proceedings have been instituted. . . . Our courts seem to give too much weight to the hardships which will result to the lawyer in case he is disbarred, and too little weight to the hardship which there is to the client, and to the community, resulting from the misconduct of members of the Bar."

I shall ask you to contrast this statement with the charges upon which members of the Bar in New York State have been punished by the Appellate Division in the last seven years:

OFFENSE.

PENALTY.

Procuring a dummy to bring a stockholder's suit and falsely swearing and procuring his client to swear falsely in a federal court of a distant district that he was the owner.

Disbarred.

(The court has jurisdiction over its attorneys for acts committed outside the state and in a United States Court.)

OFFENSE.

PENALTY.

Verification of a false account in a Surrogate's Court, and procuring the satisfaction of judgments by false and fraudulent statements. Unduly and deliberately withholding money collected for clients, and making false statements in respect thereto, to delay payment. Payment of money to a canvasser to secure litigated business, in violation of New York statute, and agreement to pay expenses of litigation; taking compensation from the adversary without knowledge of clients; deceit of clients; abandonment of clients, on receiving compensation from their adversary.

Stricken from roll and forbidden to practise. Reinstatement refused after two years.

Writing a letter to a judge complaining of his decision, and reflecting upon the integrity of the justices of the court.

Public reprimand.

Depositing in his own account the funds of an estate of which his client was executor, and using them to make good his individual overdraft; and paying his client individually for such use of the funds.

Suspended for six months.

Collecting legacies for clients and failing to remit; and resorting to deception to create false evidence of payment.

Disbarred.

Practising under the name of a firm of which one member was dead and the other suspended from practice; procuring the release upon bail of a person held for rendition as a fugitive from justice, and then conspiring for his escape.

Stricken from roll.

| OFFENSE. | PENALTY. |
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| Securing admission to practice upon former admission in Texas; but suppressing fact of his disbarment under another name in Virginia for forging a judicial decree. | Disbarred. |
| Receiving money of a client and misappropriating a part of it; deceiving a client as to pendency of appeal. The amounts were small, but this was considered no mitigation. | Disbarred. |
| Conversion to his own use of money of a client given to him to deposit in bank, and not making restitution until extreme pressure had been brought against him, and after long delay. | Disbarred. |
| Inducing complainant to withdraw charge of petty larceny without informing magistrate of circumstances; and failing to inform his accused client of his rights and the nature of the charge. | Censured. |
| Misconduct in verifying and filing objections to a will, against the instructions of client. | Suspended for two years. |
| Suppression of fact of prior conviction of crime and pardon therefor and disbarment in city of Baltimore, on applying for admission in New York, as member of bar of Harford County, Maryland. | Disbarred. |
| Receiving money from client, to be returned upon a contingency, and failing to return it upon demand, after its happening. | Disbarred. |
| Improper duns for collection of debt, falsely stating that an action has been begun. | Conduct disapproved; but no further penalty, because of discontinuance of the practice. |

OFFENSE.

PENALTY.

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| Presenting upon application for admission false certificate of admission to practice in another state. | Disbarred, after lapse of seventeen years. |
| Submitting upon motion to dismiss appeal, an affidavit reflecting upon character of justice who rendered the judgment appealed from. | Suspended for six months. |
| Paying money to the clerk of a court to secure the irregular discharge of bail given by client. | Disbarred, notwithstanding the accused attorney had turned state's evidence against the clerk. |
| Misappropriation of money; sham answers and false affidavits in his own behalf. | Disbarred. |
| Misappropriation of money. | Disbarred. |
| Utilizing a threat of a criminal prosecution as a means of forcing the settlement of a civil suit; and permitting a guardian of an infant to settle such suit without order of court. | Disbarred. |
| Alleged misappropriation of money of client given to him for specific purpose. | Reference ordered to ascertain facts, though client withdrew charges on repayment. |
| Retention of client's money and false statement to client respecting it. | Disbarred. |
| Agreement for division of fees with layman for obtaining business in violation of New York statute. | Suspended for one year—penalty stated to be mitigated because it was the first case of the kind before the court. |
| Persistent course of attempted fraud and chicanery designed to impede and prostrate the course of justice, by making motions to get the court to accept answers which he knew to be false; interposing sham answers, and thus delaying a just recovery. | Suspended for two years—penalty mitigated on account of youth; and because of some doubt upon the most serious charges. |

(In this case it was said "Laws are enacted and courts maintained for the administration of justice, not for its perversion, and all acts which have for their purpose the obstruction of the ends of justice are justly open to severe censure, and particularly when they are committed or connived at by a sworn officer of the law whose duty to his client requires him rather to discourage fraud than to assist in it.")

OFFENSE.

PENALTY.

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| Obtaining control of property of insolvent firm on eve of bankruptcy, in order to secure preference for one creditor; and covering it up by perjury and subornation of perjury; and by concealment making it impossible for trustee in bankruptcy to secure the property for the benefit of creditors. | Disbarred—question of fact re-examined, though respondent previously disbarred in federal courts for same offense. |
| Endeavoring to obtain verdict in favor of his client upon testimony which he knows to be false, although he may not have suborned perjury. | Disbarred. |
| (Lawyer's duty stated to be to disclose the fact to the court upon its discovery and to withdraw from the case.) | |
| After conviction of murder in the first degree. | Disbarred—the record of conviction held conclusive. |
| Receiving money for client and unreasonably delaying its payment; meanwhile using it for his own purposes. | Disbarred. |
| Borrowing money on false representations to meet the expenses of an action, and misapplying it. | Disbarred. |
| Fraud and deceit in procuring money upon a second contract of sale, upon the false statement that a prior contract had expired. | Suspended for one year. |
| Forgery of indorsement upon checks delivered to him by client to settle an action and applying proceeds to his own use. | Disbarred. |

OFFENSE.

Making false affidavit of payment of disbursement, which he intended to dispute; and procuring order thereon requiring adversary to reimburse it.

Misappropriation of client's money; money refunded by respondent's friends.

Misappropriation of money paid by client for specific purpose.

Conversion to his own use of client's money given for a specific purpose; falsely charging a clerk with the misappropriation.

Deceiving client as to nature of services; failure to protect client; obtaining execution of instruments containing clauses supposed to be erased; practising law under firm name, containing names of two persons with whom he had no relation.

Obstructing service of subpoena from federal court in violation of federal law; making false statements in a federal court; asserting in federal court false claim of privileged communication as counsel for corporation, when he was also a director, whose knowledge as such was not so privileged.

Delivering a forged release in making unauthorized settlement of action; and effecting settlement which was fraud on client.

PENALTY.

Censured for culpable carelessness — on contention that it was inadvertent.

Disbarred—after previous suspension for two years, for similar offense.

Disbarred—though equivalent sum was devoted to its proper use, after the proceedings were begun; and though client withdrew charges, on receiving respondent's notes (which he failed to pay at maturity).

Disbarred.

Suspended for one year—penalty stated to be mitigated by extenuating circumstances.

Suspended for one year—penalty stated to be mitigated because of excessive and ill-judged zeal to protect clients from impending catastrophe.

Disbarred.

OFFENSE.

PENALTY.

Misuse of blank instrument signed by client for specific purpose; unauthorized use of name of another attorney, in effecting settlement with his client; and in such settlement acting as attorney for adversary.

Disbarred.

Permitting a corporation to send out a threatening notice over his name falsely pretending to be sent pursuant to a law of the state; and giving to the corporation authority for its employes to sign his name to its letters relating to collections and other business.

Suspended for one year and until further order; penalty stated to be mitigated because first offense of its kind before the court.

Seeking in another state to obtain by means of threats, letters of a compromising character alleged to have been written by client.

Suspended for six months and until further order; penalty stated to be mitigated on account of youth and intense zeal of respondent.

(The court says: "Zeal for a client's cause will not justify dishonorable and unprofessional conduct.")

Misappropriation of money collected for client, by using it for benefit of another client.

Suspended for six months and until further order; notwithstanding repayment to client.

Willful false swearing.

Disbarred.

Misappropriation of client's money given for a specific purpose.

Disbarred — notwithstanding subsequent payment of judgment for the money.

Fraud upon client in making investment for her in judgment of foreclosure of defaulted mortgage, falsely representing the character of security.

Disbarred.

Misappropriation of money received from client for specific purpose; and use of forged documents to sustain alleged defense to charge.

Disbarred.

| OFFENSE. | PENALTY. |
|---|--|
| Agreement to pay to expert witness a share of recovery; permitting the witness to testify that he had no interest in the recovery, without calling the court's attention to the truth. | Disbarred—no mitigation because the witness threatened to testify to the contrary if not so compensated. |
| Misappropriation of money. | Disbarred — notwithstanding attempt to establish defense that money was merely invested; and notwithstanding its restoration before hearing. |
| Forgery of indorsement on check and misappropriation of part of proceeds; advice to client to forfeit bail. | Disbarred — notwithstanding restoration of money. |
| Receipt of money from client to take appeal; failure to take appeal; deceit of client by stating it had been taken; wilfully false misstatement on investigation of charges before County Lawyers' Association. | Suspended for one year and until further order; penalty stated to be mitigated in view of doubt occasioned by some of the testimony. |
| Misappropriation of money of client and giving false testimony in effort to escape penalty. | Disbarred — notwithstanding restoration. |
| Misappropriation of proceeds of checks given by client for specific purpose; and testifying falsely in proceeding to make him account. | Disbarred — notwithstanding restoration. |
| Misappropriation of money given by client for specific purpose; which money he obtained by trick or device. | Disbarred — notwithstanding restoration of almost all of the money. |

It is to be noted that in nearly all of these cases of misappropriation the amounts were small, yet the court looked at the moral and professional delinquency indicated by the fact, and was not deterred from administering the proper discipline by the smallness of the amount.

Those who are given to reflections upon the external evidences of the reason why so many attorneys now need to be disciplined, in comparison with former years, may find food for their reflections in the indications that the practice of the law is passing in a large measure, in New York at least, into the hands of those, who, if their names are significant, are not schooled by previous environment in the high traditions of the English and American Bar.

Those disbarred, in the foregoing list, bore the names, in the chronological order of the proceedings: Lamb, Clark, Nekarda, Kaffenburgh, Marx, Stein, Cohn, Pritchett, O'Sullivan, Leonard, Boland, Bauder, Chappell, Hart, Ironside, Joseph, Hardenbrook, Patrick, Gifuni, Andrews, Rosenthal, Levy, Feuchtwanger, Rockmore, Lowy, Greenstein, Klatzkie, Prinstein, Logan, Spenser, Shapiro, Steckler, Pascal, Smith, Levine, and Shamroth.

Those suspended were: Freedman, Randall, Rockmore, Shay, Goodman, Alexander, Gluck, Robinson, Rothschild, Chadsey, Cohn, and Voxman.

Those censured or reprimanded were: Manheim, Woytisek, Hutson, and Doyle.

There is scarcely a doubt that the Appellate Division of the Supreme Court having jurisdiction in that part of New York City included within the Boroughs of Manhattan and the Bronx has done more to purge the Bar within its jurisdiction, in the last seven years, than any other court in this land; and it at least has grasped the idea that the Bar exists as an agency in the administration of justice, and that flagrant disregard of the canons of ethics in the performance of that duty calls for strict accountability from the lawyer to the court, and such censure, suspension or removal as the character of the offense may justify. Yet I am not aware of any case on which the court has taken the initiative as it might, and of its own motion cited the offender to appear before it. In that court, hitherto, the action has, so far as I know, been upon the initiative or intervention of one or the other of the two local lawyers' associations; except upon two occasions when complaints against lawyers were made to it by inferior courts, for criticisms of judges.

Returning now to the Massachusetts Association, I would, in passing, call attention to the draft code of ethics reported by a committee in December, 1911, based upon that of the American Bar Association, but with changes which, in the judgment of the committee, make the code more appropriate for use by the Massachusetts Bar. A cursory examination shows no great departure in plan or expression. I am told that it is still undetermined whether the proposed changes shall be approved; there being here, as everywhere, a great force working for complete uniformity, fearing that differences will be misunderstood. Dean Thayer, of the Harvard Law School, has written an open letter in which he deplores the adoption of the code proposed by the committee, instead of approving the canons of the American Association; he analyzes the changes and condemns them. He has annexed a letter from Hon. Henry K. Braley, a justice of the Supreme Judicial Court of Massachusetts, written in 1908, expressing also the views of Mr. Justice Sheldon, of that court, condemning the then proposed canon of the American Bar Association upon the contingent fee. This proposed canon was changed before its adoption by the American Bar Association to read as follows:

"Contingent fees, where sanctioned by law, should be under the supervision of the court, in order that clients may be protected from unjust charges."

But it will be seen that the sentiment in Massachusetts, as indicated by the action of the Boston Bar Association, is less liberal on the subject of contingent fees.

The report of the American Bar Association contains a list of the bar associations, state and local, in the United States, and they number more than 600. It has, therefore, been practically impossible to gather data from them in the interval since I was invited to deliver this address. But incidentally I have learned that the Connecticut State Bar Association has adopted its own code. In Pennsylvania and Illinois draft codes, formulated on different lines from those of the American Bar Association's canons, were presented, but I am advised that the plea for uniformity prevailed in each of these states, and the American As-

sociation's canons were approved by large majorities; though the Pennsylvania Association has added some canons upon the judiciary to which I shall refer later.

The Bar Association of the City of San Francisco, on October 13, 1910, adopted a code substantially different in plan and form from that of the American Association. It was published in the "Green Bag" for January, 1911; it lays particular stress upon the duty of the lawyer to devote every effort to remedying present defects in the administration of justice. An abstract from its first canon is an indication of its high purpose:

"The Bar Association of San Francisco calls upon all licensed practitioners at the San Francisco Bar to bear in mind that the profession of the lawyer for more than two thousand years has been recognized essential to the social concept which is the basis of American civilization; that the ideals of the profession call not only for ability, learning, humanity and probity, but for a high-minded and unselfish obedience to the ethical truth that the lawyer, as an officer of the court, is obligated to aid in, and not to hamper or thwart the administration of justice."

The "Central Law Journal," in commenting upon this, said:

"Every member of the Bar, whatever may be his views on any of the issues now interesting the profession, should be enrolled as a member of his state and national bar association. Indeed, we are not convinced but what it should be considered derogatory from a lawyer's ethical standing in the profession to refuse, without reason, to contribute his influence to the common cause."

In the Chicago Bar Association the Board of Managers have, during the year just ended, had to consider three "legal ethics cases." It considered whether a certain statement to the public press violated the canons of the American Association against the newspaper discussion of pending litigation, and against advertising, but found no ground for condemning the particular article. It considered the retention of the name of a judge in the law firm with which he was connected at the time of his elevation to the Bench, and was unanimously of the opinion that the course could not be justified. It also considered the propriety of judges giving letters commendatory of certain lawyers, and addressed "To Whom It May Concern." As these letters had been circulated only among the clients of these lawyers, the

Board of Managers merely passed a general resolution calling the attention of the judges to the inadvisability of giving general letters of recommendation to lawyers so couched as to be susceptible of use for advertising purposes in the solicitation of business. The board states that many cases of the solicitation of legal business through circulars and advertisements have come to its attention, but in every instance, the offenders, upon admonishment, promised to abandon the practice. This activity of the Board of Managers was the subject of editorial comment in the issue of "Law Notes" for the present month of August, 1912. This Association appointed a committee to investigate the solicitation of business by lawyers, which gave public hearings, and reported that it found five groups of offenses. It recommended further investigation, with a separate committee for each group, and stated that it considered publicity the best method of putting a stop to what it styled "trouble hunting pluggers." The committee found that many soliciting lawyers wanted the solicitation stopped. It condemned those lawyers who, having knowledge of facts of wrongdoing, refused to disclose them, and stated that the judges could do a great deal to eliminate the "trouble hunting evil" if the judges would have a conference and friendly talk with the attorneys whom they suspect of "violating the common decencies of humanity and the rules of this Association."

The five groups mentioned were those who solicit business from the county jail, frequently under false pretenses, those who abuse the privilege of suits begun by so-called poor persons, those who "try their law-suits in the newspapers," the ambulance chasers (and of these it asserted many begin suits wherein there is no legal liability), and corporations and associations attempting to conduct law business contrary to law.

In New York recent legislation has prohibited corporations from practising or attempting to practise law (Penal Law, Section 280). The Court of Appeals has condemned the practice (Matter of Cooperative Law Co., 198 N. Y. 479), and each of the two Bar Associations in the city has had a committee considering the subject, including the relations to such corporations of their paid attorneys, who are in the employ of the corporation,

but who render services both in and out of court to the so-called client, whose interests may be and frequently are adverse to those of the corporate employer.

Because of the great tax upon the resources of the bar associations in the work which they do voluntarily toward purging the Bar, in New York City, and because such associations have no means of compelling the attendance of witnesses or the production of testimony, and they are, therefore, helpless in a large class of cases where complaints and testimony are not voluntarily made or produced, and because this method of investigation in the most favorable aspect calls for the double production of testimony, once before the committee and again before an official referee, the Committee on Professional Ethics of the New York County Lawyers' Association cast about for a more efficient and speedy method of trying complaints against lawyers. It found an example of such procedure in the medical boards, which in many states revoke as well as grant licenses to practise medicine. Adapting the type of laws which authorize and regulate such practice on the part of medical boards, our committee formulated a type of law for the establishment of Boards of Legal Discipline, who should perform in the interest of and at the expense of the state, and with power, the service now voluntarily performed by the grievance committees of bar associations; but the Board of Directors of the Association laid it upon the table and there it rests. I shall annex a copy of the proposed bill to the printed copy of this address.

This much for the recent activity of lawyers and courts, so far as I know them. Doubtless there is much activity of which I am not advised, for my acquaintance with the subject is only incidental to my position as Chairman of a single committee in a single city, and I cannot claim that it is exhaustive.

As illustrative, however, of the awakening interest in this subject I may say in passing that by invitation of the Directors of the New York County Lawyers' Association I addressed that body on the same subject on October 6, 1910, and that an edition of 6500 copies, printed pursuant to a resolution adopted at the close of the address, was almost immediately exhausted, partly by distribution among the 3000 members of that Association and

the 2000 members of the Association of the Bar, but largely also by distribution through other channels; the last five copies being furnished to the Consul General of Japan, at his request, for the use of members of the Bar Association of the Empire of Japan, who he stated, were greatly interested in the subject.

But the activities of courts and bar associations and bodies of lawyers acting professionally are not the only ones which have come under my notice.

About three years ago the Director of the Society of Ethical Culture, in New York, suggested the advisability of forming groups within the professions for the study of the practical problems of professional ethics arising within them.

Acting upon the suggestion, some lawyers in New York formed such a group, which has now had a successful existence for three years. It meets monthly for eight months at one of the city clubs and pursues the object of its existence. The members and guests have included the Director of the Society of Ethical Culture, a justice of the Appellate Division of the Supreme Court, two of the federal judges in the District, the deans of three law schools, a city magistrate, several former members of the district attorney's staff, the secretary of one of the public service commissions, a well-known newspaper correspondent, the secretary of the committee of the American Bar Association which formulated its canons, one of the most active aids in the San Francisco graft prosecutions, and several lawyers in active practice. Each month some of these men discuss in its practical aspects some ethical problem of professional conduct. From the papers here read and discussed have come some which have had a wider circulation, notably an article on the judiciary and the administration of the law written by two members of the group and published in the July-August, 1911, number of the "American Law Review" and a paper by a member of the group on "Unethical Practices in Bankruptcy," published and circulated by the National Association of Creditmen; while a forthcoming book, "Concerning Law and Justice," containing a division on the ethical principles of the law, is the elaboration of a paper first read at one of these group meetings.

In the Hubbard Course of Legal Ethics at the Albany Law School one of the Regents of the University of New York delivered an address at the commencement exercises in June, 1910, on "Laws as Contracts and Legal Ethics," which has received wide circulation.

During the winter of 1911 the Educational Alliance, an organization working educationally in one of the most congested parts of New York City, and chiefly if not entirely among those Hebrews who have recently migrated to this country, requested the New York County Lawyers' Association to arrange a series of lectures to be given upon legal ethics under the auspices of the Alliance and in its hall. A course was arranged which included addresses and free discussions with the audience of the following topics:

"The Relation of the Lawyer to His Client," "The Lawyer's Duty to Prevent False Swearing," "Unethical Practices in Respect to Widows and Orphans," "Strike Suits in the Surrogates' Courts," "The Duty of an Advocate in a Criminal Case in Defending a Client, Who He Knows or Has Reason to Believe is Guilty," "Unethical Practices in the Conduct of Trials," "The Duty of a Client to Choose an Honest Lawyer," "Unethical Real Estate Practices," "The Unauthorized Conduct of Notaries Public Assuming to Practice Law," "Fundamental Ethics from the Standpoint of the Criminal Law and the Public Prosecution," and "The Duties of the Lawyer in a Government of the People, by the People and for the People."

These addresses were again delivered in 1911 in a different part of the city under the auspices and at the request of the Lecture Bureau of the Department of Education of the City of New York as one of its regular courses, and again in the winter of 1911 and 1912, in the City of Brooklyn under the same auspices.

The influence of this activity has been felt also beyond the ranks of legal practitioners. In the summer of 1911 the American Institute of Consulting Engineers adopted a code of ethics denouncing as unprofessional and inconsistent with honorable

and dignified bearing to engage in certain reprehensible practices. I have reason to know that the codes of legal ethics were considered in formulating this code.

At the recent meeting in Boston, this summer, of the National Credit Men's Association, the author of the article on unethical practices in bankruptcy mentioned above addressed this convention by request upon "The Ethics of the Commercial Lawyer," and a committee was appointed to consider and formulate a proposed code to define the relations between credit men and commercial lawyers, the first effort from without the profession of which I am aware, except in statutes, to regulate the conduct of lawyers in their relations with their clients. This speaker, a member of a committee of the Commercial Law League of America to consider the abuse of the bankruptcy law, read to the credit men the proposed report of this committee to the annual convention of the said league, and the credit men by resolution approved its efforts, and resolved

"that we believe that the steps recommended by the committee are essential to the preservation of the highest standards of morality and efficiency in the practice of commercial law."

This report recommended the adoption and enforcement by the Commercial Law League of the canons of the American Bar Association, and proposed nine additional canons deemed peculiarly applicable to the correction of abuses in bankruptcy practice. I shall append them to the printed copy of this address, for I think that all such recommendations should be readily accessible.

The credit men resolved that if these additional canons should be adopted by the Commercial Law League, the National Association of Credit Men would regard them as representing the rules of conduct to be observed by lawyers generally practising the commercial law, and that to the full extent of their power the credit men would insist upon the observance of such standards by the lawyers whom they should employ. I have been advised, however, by the representative of a trade-paper, interested in the subject, and who secured from me for editorial comment a copy of the canons of the American Bar Association, that the latter were approved at the Convention of the Commercial Lawyers'

League, but without the approval of the specific additions. It would seem, if I am correctly informed, that here again the plea for uniformity has thwarted the adoption of more specific canons directed at known abuses. It seems to me unfortunate that this clamor for the excellence of the American Bar Association's canons should be utilized to prevent other bodies from taking a position to solve their own problems by apt expressions of view, particularly appealing to those within the peculiar influence of the body.

It seems to me that this plea for uniformity is too apt to discourage good and efficient vital local work, and to substitute a rigid formalism due to the adoption of something emanating in fixed phrase from an outside source. Personally, I think that this rigidity is to be deplored, and that it is calculated to work more harm than good, in discouraging particular efforts at local reform, in which conduct not denounced in the American canons needs to be specifically disapproved.

The Commercial Law League also instituted a Committee on Grievances empowered, as I understand, to receive complaints involving the professional conduct of lawyers, collect evidence and institute appropriate proceedings.

The adoption of Canons of Ethics by the American Bar Association led to commendatory editorial comment from newspapers throughout the country, and many special articles on the subject appeared in law magazines. It would unduly lengthen this address to enumerate the articles or their titles.

I have endeavored to induce the American Bar Association to make two additional moves, which it seems to me were desirable to round out its work: the first, to extend its activities by laying down principles of conduct for the judiciary; the second, to institute a standing Committee on Professional Ethics, to exercise for the Association the functions performed within the New York County Lawyers' Association by its similar committee, and assumed for the Chicago Bar Association by its Board of Managers; and performed in England among barristers by the General Council of the Bar, and among solicitors by the Statutory Committee of the Incorporated Law Society. I recognize the

practical difficulties of securing an active committee within the Association owing to the necessary geographical separation of members, but it might be accomplished by having district committees to act where local bar associations do not institute such bodies. But I am satisfied that the Association ought to take up vigorously the subject of judicial ethics.

The original committee of the American Bar Association invited suggestions and collected data in respect to the ethics of the Bench, but it refrained from formulating or suggesting canons because the resolutions under which it acted did not specify the Bench.

At the meeting in Detroit in 1909 I sought to have the Association supplement this work, and the question was referred to the Executive Committee for its recommendation. Before the Association met in Chattanooga in 1910 the two members of the ethical group in New York, which I have mentioned, who prepared the article on the judiciary and the administration of the law which I have also mentioned, had conducted through correspondence, a canvass of judicial conditions in the several states and federal districts, and those conditions, reflected in the views of conservative members of the Bar in many parts of the country, were far from satisfactory. The authors of this article collated the complaints of specific wrongdoing which they received, and when so collated they are absolutely shocking. They do not of course characterize, as the authors say, the whole judiciary, or any substantial part of it anywhere, and in many places the judiciary received nothing but commendation; but still the criticism was geographically very widespread, and it came from the most substantial and conservative classes at the Bar, for the inquiries were purposely confined to those whose views could be relied on as truthful and not exaggerated or radical. This material was presented to the Executive Committee at Chattanooga, in the hope that they might conclude therefrom that the time was ripe for continuing the activities of the American Bar Association in supplementing its canons for the Bar with canons for the Bench. But still the counsels of conservatism prevailed, and the Execu-

tive Committee saw no occasion to recommend such activity. The judicial system was held in such high regard that it was considered by individual members that a move by the Association would be misunderstood as an assault on the integrity of the Bench, although its formulation of canons for the Bar had not been similarly construed.

Since then the Bench has received criticism from without, and many nostrums have been suggested, even to taking away a substantial part of the judicial power, and proposals of impeachment of individual judges have not been infrequent. I do not feel that I can properly close this address, already inordinately long, without pointing out my conviction that criticisms of the Bench will, to a large extent, cease when the individual judges enjoy as men the complete confidence of the Bar and of the people of their communities. In many communities this is now true, in many it is not.

I know of no more certain means of instilling this confidence than to have the Bar and the people believe of individual judges that they are the highest type of men available for the positions, and that they know and observe sound ethical principles in the administration of their office.

In the article already mentioned on the judiciary and the administration of the law, the ethical principles of judicial conduct are enumerated, and I trust I may be able to give them wider circulation by quoting them in the hope that ultimately the American Bar Association may be prompted to take the judiciary as well as the Bar within its uplifting care, and that these may be the nucleus of such an effort.

This statement of principles is as follows:

"In our view, however, some such canons ought to be formulated and promulgated by the authoritative associations of the Bar, and that as speedily as may be. They should clearly and concisely make it known that the judge should so administer the law in the settlement of controversies as to show that he appreciates his position as honorable of itself and honorably to be maintained; that his conduct should uniformly be that of a gentleman and an officer and for the good of the service; that he should be ever conscious of his responsibilities, attentive to

his duties, assiduous in their performance, and avoid delay as far as possible; that he should be scrupulous to free himself from all improper influences and from all appearance of being improperly or corruptly influenced; that he should be studiously regardful of the rights of litigants; that he should be an independent and representative citizen, rather than a partisan; that he should use the necessary patronage of his office as a public trust, and that in the selection of referees, receivers, or other judicial appointees he should conscientiously appoint only men known to him to be of integrity and fitness for the duty assigned; and if he is permitted to practise at the bar, or to prosecute private business, he should not permit such matters to interfere with the prompt and proper performance of his judicial duties."

In 1911 the Pennsylvania Bar Association adopted an admirable statement of the duties of a judge which I shall also append to the printed copy of this address. It will be seen, therefore, that there never was such a widespread movement in respect to legal ethics in this country as that begun by the American Bar Association in 1905 and extended as I have shown.

I have been urged not to close this paper without pointing out the efficient service which a standing committee of the American Bar Association upon professional ethics might render to the Bar and the public, if it merely did no more than collect and report annually the activity in this matter throughout the country. This is illustrated by the amount of interesting information which a single individual has casually gathered and now puts before you.

NEW YORK COUNTY LAWYERS' ASSOCIATION—COMMITTEE ON PROFESSIONAL ETHICS.

QUESTIONS AND ANSWERS.

1. *Question:* Whether the insertion of a professional card in a trade-paper would be considered within the limits of proper professional conduct. The card was as follows: A. B., Attorney and Counselor at Law (address) (telephone number).

Answer: Resolved, That this committee answer the request for advice submitted to it under date of January 8, as follows:

"The form of advertisement proposed by you cannot be characterized as unprofessional, but its adoption must be left to the sense of propriety of the individual practitioner. The committee, however, does not approve of such form of advertisement."

2. *Question*: "I am the attorney for one E. O.; on January 2 I commenced proceedings against her husband in the Magistrate's Court which resulted in his being placed under bond to pay his wife the sum of \$5.00 per week. On the trial of this proceeding it developed that the husband had obtained a decree of divorce in Nevada, and that he had remarried. I have learned from reliable sources that prior to the second marriage the second Mrs. O. had been living with Mr. O. and that the said second wife had knowledge of the first marriage. I have been instructed to bring suit for alienation of affections, and in such suit it will be necessary to prove knowledge on the part of the second wife of the first marriage, and also cohabitation. My client is unable to pay for the detective services necessary and I have a private detective who is willing to make search for the witnesses upon a contingency, that is, a percentage of any sums that may be recovered. My associates here seem to think that such an agreement would contravene the rule of ethics. I have spoken to Mr. —, who seems to think that there is nothing inherently bad in the agreement, but he has referred me to you for authoritative opinion."

Answer: Resolved, That the inquirer be advised that this committee disapproves the course suggested in the question submitted.

3. *Question*: An attorney directed the attention of the committee to an advertisement in the following terms:

"WANTED—*In collection business I started*, an attorney as associate and outside man to call on trade for business, a hustler; percentage of profit. Box —, this office." and expressed the view that such advertising should be discouraged and invited the action of the committee.

Answer: Resolved, That the inquiry be answered with the statement that this committee agrees with the inquirer that such advertising should be discouraged, and that he be informed that a copy of his inquiry, omitting his name, and of our reply thereto, will be sent to the editor of the periodical named.

4. *Question:* An inquirer submits the following letter and asks in substance whether it is a proper professional practice for a lawyer to secure a client to solicit business systematically from others in the same business as the client, by inducing the client to send out such letters in his behalf, or by procuring such letters from a client and himself sending them to the persons addressed.

(LETTER)

"DEAR SIR: For some time past our entire legal business has been handled by the firm of A. B. & Co. of —, who act as our attorneys and general counsel on a very moderate annual retainer. Our relations with this firm have been so agreeable and their services and terms so satisfactory to us that we have decided to bring their plan of legal service to your attention, in the hope that we may thereby aid them to increase their clientele.

"Under our contract with this firm all our legal work, however large or small, is promptly and efficiently cared for, and we have the privilege of consultation and advice at all times, either at their office or our own. Their retainer is divided into quarterly instalments, payable at the end of each quarter-year. In this way our legal work becomes practically a fixed charge and may be anticipated among other operating expenses. This feature, as well as the promptness, efficiency, and convenience of the service, the low cost and the business-like methods pursued, appeals to us very strongly and we feel that other business men would gladly avail themselves of the services of this firm, if these advantages were pointed out. In fact we are advised that within the past year some 25 large firms and corporations have retained this firm on a similar basis. They employ a competent staff and their offices are among the largest and best equipped in the city. The firm is made up of four comparatively young men, each of whom is thoroughly experienced, capable and energetic.

"It would afford us satisfaction if by this means we can put them in touch with another client, and we would appreciate it very much if you would take the trouble to arrange an interview at your office with a member of their firm.

"Yours very truly,
"_____."

Answer: Resolved, That the following reply be communicated:

"That in the judgment of this committee it is not proper practice."

5. *Question:* "The attorney of record for the petitioning creditors in bankruptcy proceedings has stated on the records that he is also the attorney for the bankrupt. Will you kindly inform me whether the existence of such a fact warrants the institution of proceedings for the disbarment of such an attorney."

Answer: Resolved, That the following reply be made:

"That the propriety of instituting disciplinary measures against an attorney is exclusively the province of the Committee on Discipline of this Association.

"*Second:* However, from an ethical viewpoint, we observe that the question as presented gives us insufficient details on which to found a satisfactory judgment further than to point out the obvious evils almost inevitably resulting from attempts by an attorney to represent interests so likely to prove conflicting."

6. *Question:* "I took a judgment in the summer of 1910 against Mr. A. I knew that he had worked for Mr. B. and supposed that it was upon a commission arrangement where his fee was contingent upon success. I got out a third party order to examine B. and he gave me an affidavit stating that he owed A. nothing.

"I then examined A. in supplementary proceedings and he stated that B. owed him nothing. Thereafter A. sued B. for a large sum of money for fees due for services rendered prior to his examination in supplementary proceedings.

"The attorney for B. found my judgment on record and called upon me. I told him frankly all I knew and told him about the affidavit of A. in supplementary proceedings. When I came to think the matter over I realized that if I aided B. in his defense and enabled him to succeed in defeating A.'s claim, as it seemed likely the papers in my possession would do, I would probably never be able to collect anything from A., whereas if I aided A. he might get a judgment which would be good and I might therefore succeed in collecting my judgments.

"I talked the matter over frankly with B.'s attorney. We agreed that it was not fair that I should take the whole risk and that B. ought to have the assistance of the documents in my possession. B.'s attorney said he thought B. ought to share the

loss with me on some fair basis and as I have four claims against A., only two of which are in judgment, that B. ought to purchase some of them.

"The question arose then between us as to the bearing of any ethical principles involved. Neither of us is willing to take any action knowingly or intentionally which will subject us to criticism. However, if some such arrangement cannot be honorably made, it leaves one of us in the position where he is likely to suffer unfairly.

"The lawyers with whom I have talked, with one exception, have said that there is no question of ethics involved, that I am the owner of property which I am entitled to use in any way I see fit, and to sell to whomsoever I please regardless of the effect of such sale upon litigation between other parties.

"The total amount involved is about \$1500. The judgments I hold against A. are for \$500 and \$50 respectively with interest and costs. My own wish would be to sell the claims not in judgment to B. and to proceed against A. to punish him for contempt or secure in the City Court an order fining him the amount of the judgment. I might in that way collect probably all that is due me, and it seems to me and to those I have consulted to be a fair and honorable proceeding.

"The evidence which I would furnish would all be documentary, as I cannot add anything to what they now have except the affidavit referred to, notes, etc. There is, therefore, no temptation to subornation of perjury.

"I submit this to you and your committee in the hope that you can clear up what doubt there is in the matter, and I beg to thank you most sincerely for your opinion.

"It is much better for us attorneys to take these matters up before action than to be subjected to unfavorable criticism afterwards.

"A prompt answer is quite desirable because A.'s case against B. will come on for trial in about ten days."

Answer: Resolved, That the following reply be made:

"This committee, understanding that the inquirer is himself the judgment-creditor, deems it unprofessional in general for a lawyer to demand compensation as the condition of a disclosure by him of information to prevent recovery upon a claim which the claimant has sworn does not exist.

"But the question as framed appears to us to preclude the possibility that a purchase of the claim is exacted as a condition of the disclosure because such disclosure has already been freely made; and, therefore, the committee does not regard the transaction as open to any criticism;

"*Provided*, the inquirer does not follow the realization (from B. upon his claim in order to defeat A.'s claim) by proceeding against A for contempt on the inconsistent theory that A. nevertheless has a valid claim against B."

7. *Question*: "May I impose on you to obtain a reply to the following questions:

"1. Is an attorney entitled to retain moneys in payment of disbursements when said moneys were received by him in another matter in which he appeared as attorney for the same client, and assuming that the client has not agreed to allow the attorney to retain same?

"2. Is an attorney entitled to retain moneys expended for disbursements, which moneys were received in the same matter in which the disbursements were had?

"3. Where the original matter in which the expenses are made is one involving a collection, and something is received by the attorney, is he entitled to retain what he has received on account of disbursements had therein?"

Answer: Resolved, That in the opinion of the committee in each case suggested, the attorney is entitled to retain the amount of money so expended for disbursements, but subject, in case of objection by the client, to a judicial determination of the reasonableness and propriety of the disbursements and the right of the attorney to so apply the moneys; but that the attorney should not make such an application of the withheld funds for his own purposes as to preclude or endanger their return in whole or in part if the question be determined against him by a competent court.

NEW YORK COUNTY LAWYERS' ASSOCIATION—COMMITTEE
ON PROFESSIONAL ETHICS.

PROPOSED CODE OF ETHICS RECOMMENDED TO THE BOARD OF
DIRECTORS JANUARY 3, 1911.

THE ETHICS OF THE LEGAL PROFESSION OF THE STATE OF
NEW YORK.

The New York County Lawyers' Association approves the canons of ethics adopted by the American Bar Association.

For the guidance of its members and of its Committee on Discipline, this Association adopts the following statement of the professional duties of the lawyer in this state:

1. He must support the constitution and laws of the United States and of the state, and faithfully discharge the duties of his office according to the best of his ability.

2. In the discharge of his duties, he should observe high moral principle and strict integrity; and should exercise a reasonable degree of professional skill, industry and care, and should observe all statutes and rules specifically applying to an attorney at law.

3. He should employ such methods only as are consistent with truth; and should never seek to mislead others by false statements of the law or facts; nor knowingly exceed his authority; nor practise any fraud or deceit whatsoever.

4. In his relations with his clients, he should be at all times mindful of the obligation arising from the confidence reposed in his integrity, in his learning and in his ability to perform the duty for which he is retained.

In his transactions with his clients, he should be fair and just, and should observe a scrupulous fidelity to his clients' interests. He should disclose to them all facts known to him and relating to their affairs, and should make clear to them their legal rights.

He should maintain inviolate the confidence of his clients and should not disclose their secrets, except when compelled so to do by law.

He should not use knowledge gained from his client's confidence to his client's disadvantage at any time or under any circumstances.

In the conduct of unlitigated business, as well as in litigation, he should not, without his client's consent, accept any inconsistent employment.

5. His compensation may be the subject of contract with his client, but it should always be reasonable in amount, whether in the form of a contingent fee or otherwise; and under no circumstances should advantage be taken of the client's ignorance or necessity.

He should seek no advantage or profit to himself outside of his proper compensation.

He should not accept any costs or compensation for services rendered in his client's matters without his client's knowledge, and he should not, without his client's knowledge and consent, accept any portion of the fees charged by other attorneys or individuals or corporations employed by him in his client's business.

6. In advising his clients, he should be guided by his own or counsel's judgment of the law applicable to the facts of the case.

In actual litigation, he may use, for the protection of his client's interests, all procedure provided by law, but he should counsel only such conduct and maintain only such actions, proceedings and defenses as appear to him to be just and either legal or legally debatable.

He should never countenance, by the acceptance of a retainer, unjust, useless or oppressive suits, or consent to the interposition or maintenance of false or sham defenses.

He should not encourage the commencement or the continued prosecution of an action or proceeding from any personal motive of passion; he should avoid champerty, maintenance and barratry and their equivalents; and he should never purchase or acquire a right when his controlling purpose is to promote litigation; nor should he promote it by agreeing in consideration of employment to bear the disbursements or cost of litigation.

7. For the preservation of individual rights, secured by the constitution or laws, he may so defend, on a prosecution for crime, one whom he believes to be guilty of the offense charged, as to insure a fair trial and to prevent conviction save pursuant to law.

8. He should not make a practice of seeking to secure professional employment by soliciting it of strangers, personally or by agents. The offer of his services to fellow lawyers, or the insertion of professional cards in regular publications is not deemed a violation of this canon.

9. He should not reject, from merely personal considerations, the cause of the needy or oppressed.

10. If entrusted with money or property, he should administer with fidelity the trust reposed in him.

11. He should be alert and diligent in prosecution, vigilant and careful in defense, scrupulously observant of his stipulations, whether oral or written, obliging in matters not inconsistent with his client's rights, and courteous and prompt in all his dealings.

He should abstain from offensive personalities and advance no fact prejudicial to the honor or reputation of any attorney, party, witness or other person unless required by the justice of the cause with which he is charged.

12. In his relation to the community of which he is a citizen, he occupies a position of peculiar responsibility. He should be zealous to assist in purging the Bar of unworthy members; and to this end he should report to the proper disciplinary body any serious infractions of law or professional ethics by any attorney. He should be fearless to expose before the proper tribunal any breach of judicial integrity; and quick to attack in any quarter any unlawful assumption of power, any abuse of process of law, and any invasion of the rights of life and liberty guaranteed to all by the constitution.

13. In his relation to the courts and judicial officers, he should maintain their dignity by respectful address, and by punctilious discharge of every duty; and should abstain from all attempts to curry favor and even from the appearance of utilizing personal relations to secure professional advantage. He should observe the mandates and judgments of the courts until they are properly reversed, modified or suspended, although he is under no obligation to overlook acts of judicial malfeasance out of a false respect for the office.

14. If invested with other public office, he is bound to a high efficiency of service, by reason of his knowledge of the law. If he serve as a district attorney, he represents the people of the state, and should avoid oppression and injustice of every kind whatsoever.

15. When elevated to the Bench, he assumes new obligations, and in the discharge of his judicial duties should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor and regardless of private influence, and should administer the patronage of the position as a public trust.

16. In his own conduct and in his advice, he should observe principles commonly recognized in the profession as ethically sound, and reject those commonly regarded as unprofessional. He should abstain from any conduct derogatory to the dignity, honor and integrity of the profession. As an officer sworn to uphold the law, he should, by his conduct and counsel, exemplify the law-abiding spirit.

The faithful observance of the foregoing summary of professional ideals does not deprive the lawyer of any of his professional rights; their infraction will subject the offender to the condemnation and discipline of this Association.

A BILL

ENTITLED AN ACT TO AMEND THE JUDICIARY LAW AND TO INSTITUTE BOARDS OF LEGAL DISCIPLINE AND TO DEFINE THE POWERS OF SUCH BOARDS.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. That the Judiciary Law is hereby amended by adding thereto the following sections:

SEC. 480. *Boards of Legal Discipline.*—There is hereby instituted in each of the judicial departments of this state a board to be known as the Board of Legal Discipline for such department, with the powers enumerated in the following sections of this law. Such boards in the performance of their official duties as defined by this law shall have the powers of referees appointed to examine and report in the Supreme Court, and the powers and duties enumerated in the following sections of this law.

SEC. 481. *Composition of Boards of Legal Discipline.*—Each Board of Legal Discipline shall be composed of three persons, of good personal and professional repute, admitted to practise as attorneys and counsellors of the Courts of Record of this state, residing in the judicial department for which they are appointed, who have each actively practised their said profession in this state, or have been judges of Courts of Record of this state, for the aggregate period of at least ten years at the time of their appointment.

SEC. 482. *Appointment and Terms of Boards of Legal Discipline.*—The members of each such board shall be appointed by the justices of the Appellate Division for the department from which such board shall be appointed, and the appointment shall be made by a majority of the justices in writing filed in the office of the clerk of such court; they shall hold office for the term of three years beginning January 1, and until their respective successors shall be appointed and shall qualify, except that upon the first appointment the justices making the appointment shall designate one of the appointees to serve for three years, one for two years and one for one year, and such first appointees shall serve for such terms respectively, to expire, however, on January 1 nearest to the expiration of such periods or thereafter when their successors qualify. A member may be reappointed to such board. The terms of such members shall expire on January 1, but a member may serve until his successor has been appointed and has qualified by taking the oath of office prescribed by Sec. 1 of Article XIII of the Constitution of the State of New York.

SEC. 483. *Meetings and Records of Boards of Legal Discipline.*—A majority of the members of any such board shall constitute a quorum for the transaction of its business (except, however, that the individual members shall have the powers conferred on them in any provision of this act); they may select one of their number to preside at their meetings, and shall designate another of their number to act as their secretary; they shall designate the office of their secretary, within the department, as the office of the board for the receipt of complaints and the filing of papers. Except as hereinafter otherwise provided, the secretary shall keep a record of the proceedings of the board and of its action in all cases. Such record shall be deemed a public record and shall be open to public inspection, but neither complaints nor answers filed, nor testimony taken, nor other proceedings upon complaints filed, shall be a part of such record or be entered therein or be open to public inspection, except that, in case the findings of the board upon any complaint filed with it shall be adverse to the accused, then the complaint and answer,

the testimony taken, the findings of the board and the disposition thereof by the board shall be entered in said record and be open to public inspection. The said board may meet by designation from time to time at any place within its judicial department, and shall, in any particular case brought before it, designate such time or times and place or places for hearings and other proceedings and for meetings of the board as may, in its judgment, best suit the convenience of the parties and witnesses and accomplish the ends of substantial justice.

SEC. 484. *Rules for Practitioners of Law.*—The justices empowered to adopt general rules of practice for the Supreme Court, shall from time to time adopt as a part of such rules of practice, rules (which they may from time to time alter or amend) for the governance of and observance by practitioners of law within the State of New York, a violation of which shall subject the offender to discipline or investigation by one of said boards; which rules, however, shall not be deemed to abrogate any existing provision of law defining or creating any duty or obligation of such practitioners.

SEC. 485. *Complaint before Boards of Legal Discipline.*—Any person deeming himself aggrieved by the professional misconduct of any person admitted to practise or practising or professing to practise or holding himself out as practising law in any of the courts of this state or as giving advice in this state as a lawyer, or any person claiming that any such person has conducted himself in his said profession or pretended profession in a manner prejudicial to the public good, or to the detriment of any client, may lodge a complaint in writing, specifying the charges against such person, verified in accordance with the provisions of the Code of Civil Procedure for the verification of complaints in actions, by filing the same in the office of the secretary of the board of any department in which the accused person may maintain an office, or may reside, or may have done any of the acts complained of, and such board shall thereupon, either by special or by standing order, fix a time and place for the first hearing upon said complaint, which time shall, however, not be less than thirty days after the lodging of said complaint. A copy of such complaint, with notice of such time and place, must be served upon the accused at least twenty days before the time fixed for such hearing as aforesaid, in the manner prescribed by the Code of Civil Procedure for the service of a summons in a civil action; and for the purpose of making orders for the service thereof any member of said board shall have the same powers as a judge of the Supreme Court in respect to the service of such summons. Said board or a member thereof may for good cause

shown grant an adjournment of such hearing, but not without notice, unless such adjournment be granted at the time and place appointed for such first hearing. Any such board may, for the promotion of justice or the convenience of the parties or witnesses, make an order in its discretion, removing said cause to any other of said boards; and thereupon the secretary of the first of said boards shall transmit promptly to the secretary of the second of such boards all papers on file with him in such cause, and thereafter the matter shall proceed before the second of said boards as though instituted before such board.

The hearings may proceed from time to time before the full board or before any member thereof, as fixed by special or general order of such board, except that the final hearing for the submission of the cause shall take place before a quorum of the board, unless both parties shall otherwise agree.

The board shall employ a stenographer to take down the minutes of all testimony produced before it, and any party shall be entitled to a copy of such minutes upon the same terms as are prescribed by the Code of Civil Procedure for procuring minutes of a trial in the Supreme Court within such department.

At or before the time fixed for the hearing of any complaint, or within such additional time as may be fixed by order of a member of the board, for good cause shown, the accused shall have the privilege of answering the charges in writing; but such answer need not be under oath.

The rules of evidence in the Supreme Court for the trial of civil actions shall govern the reception of evidence by the board or its members, provided that, to any ruling by a member of the board, on a question of evidence, any party feeling himself aggrieved may take an objection, specifying the ground, and reserve an exception, and have the same reviewed on the final hearing by a quorum of the board, and a quorum of the board may, of its own motion, reverse or modify such ruling, and it may also direct any further hearing or hearings; but no reversal shall be made unless in the judgment of the board the ruling is wrong on the merits and produces a miscarriage of justice. Any further hearing shall be upon the remaining testimony already taken and such further testimony as may be adduced.

Any member of the board may administer oaths and issue subpoenas and *subpoenas duces tecum*. Such subpoenas to be returnable upon any hearing, in any matter pending before the board or any of its members.

Attendance may be compelled, and failure to obey any subpoena may be punished by the Supreme Court in the same manner and by the same process and penalties as in case of a failure to obey a subpoena issuing out of the Supreme Court.

Any party to any matter pending before any board may be represented by counsel, who shall be an attorney and counsellor duly admitted to practise in the courts of record of this state, and any such party shall be entitled to compel the attendance of persons and the production of books and papers by subpoena or *subpoena duces tecum* as the case may be, signed by any member of the board and served anywhere within the state, upon the same conditions as such subpoenas may be served, issuing out of the Supreme Court.

SEC. 486. *Investigation by Boards of Legal Discipline.*—Any such board may investigate of its own motion and without any formal complaint any matter coming to its attention, in respect to which a complaint might be lodged with it, and it may present charges, but in that case before any person can be brought before it on charges against him, he must have notice of such charges, and the same opportunity to answer and be heard, as though a complaint were lodged against him as hereinbefore provided. In the event that the board shall present charges, it cannot pass judgment, but shall report its charges with the testimony taken thereon to the Appellate Division of the department of its appointment, for such action thereon as such Appellate Division may take.

SEC. 487. *Findings and Orders of Boards of Legal Discipline.*—Any such board, before whom any matter may come by virtue of any complaint lodged with it, shall proceed as hereinbefore provided, to take testimony, and make findings in respect to the charges. If it shall find after the examination of the witnesses produced that such charges are not sustained, or at any stage of the matter that such charges, if proved, would not constitute an offense meriting discipline hereunder, they shall dismiss the complaint; but if, after hearing and the examination of all witnesses that may be produced, it shall find that the charges or any of them have been sustained, and that under the laws of the State of New York, or the rules of practice established under Section 484 of the Judiciary Law, the offense is one which merits discipline hereunder, it shall enter its findings and orders thereon on its records. It may warn or reprimand any person whom it may find to merit such discipline; but if it be of the opinion that the offense merits disbarment or suspension from practice, then it shall report its findings with the testimony to the Appellate Division in the department of its appointment, for such action thereon as such Appellate Division may see fit.

SEC. 488. *Facts to be Examined by Boards of Legal Discipline.*—Any proceeding for the punishment of any member of the Bar or person professing to practise law, brought originally

before any Appellate Division, may be remanded to the board for that department for proceedings in accordance with this law.

SEC. 489. *Appeals from Boards of Legal Discipline.*—An appeal may be taken from any final order of any such board, to the Appellate Division of the Supreme Court in the same manner and within the same time as an appeal from a final order in a special proceeding in the Supreme Court.

SEC. 490. *Compensation of Boards of Legal Discipline.*—Each member of each Board of Legal Discipline shall receive out of the state treasury such reasonable compensation as shall be allowed by the Appellate Division appointing said board upon proof of services performed.

SEC. 491. *Costs and Taxable Disbursements before Boards of Legal Discipline.*—Costs and taxable disbursements may be awarded to or against any party by said board upon any final decision at the same rate and upon the same principles as they are awarded in actions in the Supreme Court, except that no extra allowance shall be awarded.

SEC. 492. *Filing Fee.*—Upon the filing of any complaint with the board, the complainant shall pay to the secretary of the board a fee of \$50, which shall be deemed a taxable disbursement. But for sufficient cause shown any board may in the exercise of its discretion dispense with the requirement of such payment.

SEC. 493. *Copies of Papers. Receipts.*—The secretary of the board shall furnish under seal, which each board is empowered to adopt, copies of papers on file with him to any person against whom a complaint has been filed, on demand, and shall furnish to each applicant therefor copies of the record of the proceedings of said board, or any part thereof, on demand, at the same charge therefor as clerks of the Supreme Court in his department are empowered to exact. All receipts of the board and its secretary shall be accounted for in accordance with the provisions of the State Finance Law.

SEC. 494. *Expenses of Boards and their Secretaries.*—The necessary expenses of the boards and of their respective secretaries incurred in the performance of their official duties, when approved by the respective boards, are to be paid out of the state treasury.

SEC. 495. *The Orders of Boards of Legal Discipline.*—The orders which may be entered against accused persons under any of the provisions of Sections 480 to 495 of the Judiciary Law, shall be considered to be entered and enforced for the purification of the administration of justice in this state and shall not be deemed punishment and shall not prevent the prosecution of the offender for any offense which he may have committed in

violation of any criminal law of the state, and shall not be deemed to merge or extinguish or release any such offense or any cause of action, civil or criminal, against the offender.

SEC. 2. This act shall take effect on September 30, 1910.

**ADDITIONAL CANONS PROPOSED TO COMMERCIAL LAWYERS'
LEAGUE, RELATING PARTICULARLY TO BANKRUPTCY
PRACTICE.**

"I. An attorney for a creditor or for a receiver or trustees should never divide fees with the attorney for the bankrupt.

"II. No attorney should divide fees with a receiver or trustee in bankruptcy nor should he accept a share of commissions from the receiver, trustee or auctioneer, nor a share of fees from the appraisers.

"III. No attorney should divide fees with his client. It encourages preferences disguised as fees to the lawyer.

"IV. While cooperation among creditors in the administration of a bankrupt estate is highly desirable and may be conducive to efficient and economical administration of the law, the solicitation of claims by attorneys in order to file a petition or secure the appointment of a receiver or trustee, or to control the administration of the estate, results in lowering the standard of practice and is highly unprofessional.

"V. Since petitions filed by creditors with the consent or upon the admission of the bankrupt (while recognized by the statute) often furnish opportunity for collusive concealment of assets, collusive sales, or unfair compositions, the attorneys for the bankrupt, the petitioning creditors, the receiver and the trustee should so conduct themselves as to give all creditors an equal opportunity to examine the books and assets and all information concerning the existence and identity of creditors and assets.

"VI. The defense of a bankrupt gives his lawyer no special privileges. It is thoroughly reprehensible for him knowingly to suffer his client to commit perjury, or to continue to represent a client who commits perjury.

"VII. The belief that some of the provisions of the law work in justice or unfairness cannot justify their violation by an attorney. He may work to amend the law but he may not violate it.

"VIII. The use of criminal proceedings to extort a settlement is unprofessional. If restitution is to be made, it should be with the full knowledge and approval of the prosecuting officer.

"IX. No attorney for a creditor, receiver or trustee should accept a fee or expenses, payable by a bankrupt who has offered a composition or settlement, or from the person or persons who provide the fund to pay such composition or settlement, unless the amount of such fee or expenses shall be stated of record in the proceedings."

PENNSYLVANIA BAR ASSOCIATION ADDENDUM (ADOPTED 1911) TO THE AMERICAN BAR ASSOCIATION CANONS OF ETHICS (WHICH WERE ADOPTED BY THE PENNSYLVANIA ASSOCIATION IN 1910).

WITH RESPECT TO JUDGES.

The vast importance of the judicial branch of our Government demands that the Bench shall be kept pure and reliable and enjoy the full confidence of the public. To this end none can contribute greater support and influence than the judges themselves, and without their consistent aid the efforts of all others will be but in vain.

A judge occupies an unique and pre-eminently responsible position, enjoys a distinction, attracts an attention and exercises an influence possessed by no other; and upon his conduct and demeanor, both in and out of court, more than upon all other factors, depend public respect for the law and confidence in its due administration. All his words and acts are carefully noted and closely scrutinized. It is, therefore, of the utmost consequence that he so guide and guard his life that it shall furnish no just ground for suspicion of either his partiality or of his integrity; for whatever tends to create doubt of his fairness or of his honesty tends also to provoke contempt for the law and distrust of its administration. He should avoid, even in minor matters, any actual or apparent violation of the law which on the Bench it is his duty to enforce against others. His private life should be clean and free from reproach. For these reasons he should be modest in his demeanor, an exemplar of obedience

to law, and of the highest type of citizenship, and his attitude in the community should be that of one so wholly devoted to and engrossed in the proper discharge of the duties of his office, that he has no inclination to take part in either party politics, active business, or any public agitation. The active participation of a judge in party politics, whether it be in the private counsels of the leaders, or in the public conventions, meetings or demonstrations of the party, is one of the most fruitful and pernicious sources of dissatisfaction with the Bench and with its rulings. A similar result follows from his alliance with any active business, or his connection with matters exciting public feeling.

A judge should be diligent in his business, and should permit no avoidable delay whereby injury may result to any party, remembering always that from the days of Magna Charta until now it has been uniformly declared, as expressed in the present constitution of this state, that litigants are entitled to have "right and justice administered without sale, denial or delay"—the three being always conjoined. In the discharge of his official duties the judge should be influenced by nothing—not even by his own personal opinion—apart from the law applicable to the facts and equities of the cause before him. He should not converse with lawyers about their pending cases unless both sides are represented. In interrogating counsel he should avoid any appearance of bias, and he should never, by word or act, appear to favor or to discredit any attorney, much less to influence or to oppose his employment.

Attorney and client alike are entitled to the patient attention of the court, and the judge should never permit himself even to appear inattentive or impatient. The attention and courtesy due from the Bar to the Bench are equally due from the Bench to the Bar and will be especially appreciated and reciprocated by the junior members.

The judge is no less a social being than other men, and no just criticism can be made of him because he continues those friendships which he formed when at the Bar, or because he thereafter forms new attachments; but he should neither permit his conduct to proclaim his friends nor his public companionship with them to be ostentatious.

1912 REPORT

OF THE COMMITTEE ON STANDARD RULES FOR ADMISSION TO THE BAR.

To the Members of the Section of Legal Education, American Bar Association:

Your committee is of opinion that the cause in hand will be best served by our resubmitting our 1911 report rather than a new one for the reason that as yet there has not been full discussion upon the propositions in last year's report in the light of the opinions *pro* and *con* quoted therein.

Furthermore we have recently, in accordance with the action of the Section at the 1911 meeting, sent out a reprint of our 1911 report to all members of the American Bar Association, Federal Judges, State Appellate Judges, Bar Examiners, Law School Professors and Chairmen of the Committees on Legal Education of the State Bar Associations, with request for expressions of opinion upon the various points set forth therein. These replies are now coming in and, in our judgment, our final report should be presented only after the members of your committee have had an opportunity thoroughly to digest them.

We accordingly annex as part of the present report copy of our 1911 report that it may be before the Section at this meeting and incorporated as part of the *proceedings in the Association's 1912 volume*, and we recommend that the committee be continued.

Two of the sixteen propositions (Nos. I and XI) are particularly set for discussion at the current meeting, but we hope that time will permit all to receive attention in the debate.

Respectfully submitted,

HOLLIS R. BAILEY, Massachusetts,

WESLEY W. HYDE, Michigan,

HENRY H. INGERSOLL, Tennessee.

FRANK IRVINE, New York,

LAWRENCE MAXWELL, Ohio,

GEORGE W. WALL, Illinois.

LUCIEN H. ALEXANDER, Pennsylvania, *Chairman*.

August 29, 1912.

The 1911 report of the Committee on Standard Rules * for Admission to the Bar is as follows:

To the Members of the Section of Legal Education, American Bar Association:

Your committee has the honor to report as follows:

By virtue of the action of the Section your committee understands its function to be the preparation of a draft for Standard Rules for Admission to the Bar—rules which shall embrace all that should ordinarily be included within an adequate admission system, and which hereafter may serve as a general guide in jurisdictions in which changes in the rules now in force are being made or are in contemplation. Your committee does not understand that it is proposed either to refer the rules when finally approved to the Association's Committee on Uniform State Laws or in any other way to undertake a propaganda for their universal adoption in America.

Standard rules in so important a matter can be made of substantial value only through intrinsic merit. It follows that they should be drafted with the greatest care and only after the fullest possible consultation with those likely to have opinions and suggestions of value, that they may represent the consensus of the best professional judgment of our time.

We have been and are of opinion that the satisfactory completion of the task will more rapidly result if the main points to be incorporated in the rules are first discussed as independent propositions until a substantially final agreement shall be reached with reference thereto, that in fact the fundamental principles can be better considered and debated in this form than if crys-

* A reprint of the 1911 report was sent by the committee in July, 1912, to all Federal Judges; the Judges of the highest Appellate Courts of the States; all members of the State Board of Bar Examiners; the Deans and Professors of all American Law Schools; the Chairmen of the Committees on Legal Education of the State Bar Associations and the members of the American Bar Association, accompanied by a request to comment freely on all propositions discussed in the report and to submit to the committee suggestions as to additional points of importance to be incorporated in the proposed Standard Rules.

tallized into concrete rules, for in a draft of the rules as a whole a matter of prime importance may be embodied in a single clause and attract but little notice.

We also believe that ultimate progress in such a matter as this will be more rapid and of more substantial and lasting value if the principles to be incorporated in the proposed Standard Rules for Admission to the Bar are thoroughly understood, are fundamentally right and widely approved.

Accordingly at the 1909 meeting of the Association in Detroit, Michigan, we presented for your consideration a report embodying eighteen propositions, two of which (A and B, *infra*), owing to the action taken by the Association in years past, we considered then and regard now as beyond the domain of present-day argument.

The eighteen propositions (the first two designated A and B, and the remainder numbered from I to XVI) are as follows, and are now submitted in the form last acted upon by the Section:

A. *Examinations for admission to the Bar should be conducted in each state by a board appointed by the highest Appellate Court.*

B. *A law diploma should not entitle the holder to admission to the Bar without examination by this board.*

I. *The candidate shall on admission be a citizen of the United States. (For discussion in re this proposition see pp. 7 to 13, infra.)*

II. *He shall also be a citizen of the state in which he is applying for admission, or prove that it is his intention personally to maintain an office therein for the practice of the law. (For discussion, see pp. 13 to 16, infra.)*

III. *Character credentials on application for admission shall include the affidavits of three responsible citizens, two of whom shall be members of the Bar, and the affidavits shall set forth how long a time, when, and under what circumstances those making the same have known the candidate. (See p. 16.)*

IV. *The lawyer on admission shall be designated attorney and counsellor, and not merely attorney. (See p. 18.)*

V. *Three years' practice in states having substantially equivalent requirements for admission to the Bar shall be sufficient*

in the case of lawyers from other jurisdictions applying for admission on grounds of comity. (See p. 23.)

VI. *There is no necessity for the insertion in the rules of a reciprocal comity provision; that is, of a proviso prohibiting the admission of lawyers from other states on grounds of comity, unless the state from which the lawyer comes extends similar courtesies to lawyers from the Bar of the state in which the candidate is applying for admission. (See p. 30.)*

VII. *Students shall be officially registered at the commencement of their course of preparation for the Bar, upon report of the State Board as to fitness. The board's report shall be based upon its inspection of the candidate's credentials establishing that he has passed the required academic examination. The registration shall be with the clerk of the highest Appellate Court. A candidate removing from a jurisdiction having similar standards for registration may have the registration transferred. Nunc pro tunc registration may be permitted according to the present New York practice, which allows such registration only when the candidate had the requisite education at the date as of which he desires to be registered, and in a case where there has been no laches on his part. (See p. 31.)*

VIII. *No candidate shall be registered as a student at law until he shall have passed the entrance examination to the collegiate department of the State University of the candidate's state or of such college as may be approved by the State Board of Law Examiners, or an examination equivalent thereto conducted by authority of the state. (See p. 34.)*

IX. *Proof of moral character shall be required as a prerequisite to registration. (See p. 37.)*

X. *Student candidates for admission to the Bar, in order to be eligible for the examination for admission, shall have studied either in an approved law school or bona fide served a regular clerkship in the office of a practicing attorney during the required period of preparation. (See p. 38.)*

XI. *No student candidate shall be eligible for admission to the Bar until he shall have devoted four years in preparing for*

call to the Bar, either by the service of a four years' clerkship in an approved law office or three full years in an approved law school, followed by one year of clerkship in an approved law office; provided, however, that the fourth year may be passed in an approved law school in post-graduate work, including procedure and practice. (See p. 47.)

XII. *Candidates for admission shall present themselves prepared for examination in the following subjects: Constitutional law, including the constitutions of the United States and . . . (the candidate's state), equity, the law of real and personal property, evidence, decedents' estates, landlord and tenant, mortgages, contracts, partnership, corporations, crimes, torts, agency, sales, negotiable instruments, domestic relations, common law pleading and practice, federal and state practice, conflict of law, professional ethics, the federal statutes relating to the judiciary and to bankruptcy, and the development in . . . (the candidate's state) of the principles of the law, as exemplified by the decisions of its highest Appellate Court and by statutory enactments. (See p. 62.)*

XIII. *Names of all candidates for admission should be published by the board for three days in succession, at least ten days before the examination, in a newspaper of general circulation throughout the state, and for four weeks in a law periodical, should there be one within the state jurisdiction. A similar publication should be made of the names of the candidates passed at the examination and at least ten days before the State Board's certificates are issued to the candidates. (See p. 66.)*

XIV. *From the examination fees received the members of the State Board shall receive such compensation as the highest Appellate Court of the state may from time to time by order direct. (See p. 68.)*

XV. *The fee for examination for admission shall be \$25, and for passing up registration credentials in the matter of general education qualifications, \$5. (See p. 69.)*

XVI. *The State Board shall consist of five members of the Bar, no one of whom shall receive student candidates in his office in preparation for call to the Bar, or be connected with the*

faculty or governing body of any law school presenting candidates for admission. (See p. 71.)

In accordance with the instructions of the Section, your committee during the summer of 1910 caused a reprint to be made of its 1909 report, with annotations to the action of the Section at the 1909 meeting upon the sixteen fundamental propositions then submitted, and sent the same, *inter alia*, to every member of the American Bar Association, to the Chief Justices of the various states, to the members of all State Boards of Bar Examiners and to the deans of all American law schools, with requests for criticisms and suggestions.

We have been favored, although almost overwhelmed, by a volume of replies, many of which have proved most suggestive and of great value to your committee. These we have subdivided, classified and assembled under appropriate heads, and with a view to giving you the substance of the views received we now submit a selection of same, with other pertinent material, classified proposition by proposition, and in the belief that the discussion thus presented will prove peculiarly helpful to those studying the subject.

It has of course been impossible to print all the opinions received, but in every instance where marked opposition was expressed to a particular proposition we have embodied the writer's views in our report *totidem verbis*.

I.

The candidate shall on admission be a citizen of the United States.

This proposition was submitted by the committee in this form at the 1909 meeting of the Section, and, after debate, was so approved. In presenting it, your committee at that time said:

"It has been suggested that provision should be made for the admission to the Bar of our courts of the inhabitants of Porto Rico and the Philippines. Under the present law, they are not citizens of the United States, and yet, not being aliens, cannot be naturalized. *Query*: As a matter of principle, should or should not an American court admit as a practitioner at its Bar one whom the people of the United

States, through the legislative and judicial departments, have refused to recognize as a citizen of the United States?"

The proposition is, in the judgment of your committee, one of fundamental importance and we accordingly, for convenience of reference, excerpt the following remarks from the 1909 debate thereon (the same will be found in full in volume XXXIV A. B. A. Reports, pp. 743-746) :

" Hollis R. Bailey, of Massachusetts:

" In Massachusetts, for many years, we have not had that requirement. I think that as far back as 1854 a statute was passed allowing aliens who had filed their first papers to become members of the Bar, and we have worked under that statute ever since, and have admitted a good many men who had filed their first papers, but had not become naturalized citizens. We have now an application from a candidate who filed his first papers some fifteen years ago. He is eligible to be admitted under our statute. But, for a uniform law, I was glad in committee to vote in favor of the rule that a candidate must be a citizen of the United States on admission. I think that such a requirement is not too severe, and that on the whole the experience of our board in Massachusetts would lead its members to approve it.

" John H. Wigmore, of Illinois:

" An extremely harsh case of this particular kind has come to my notice lately, and I have had occasion to reflect upon it. I think that in the case of cities including from fifty to one hundred thousand Poles, Italians, Germans, and other foreign nationalities, we all realize that there are great abuses under our law. For instance, in every Italian district the people do not go to our courts. They have padrones who do their entire law business. There is a king of Little Italy in Chicago who keeps them all out of the courts. One reason for this is that when you do not permit an adult alien to become a member of the Bar, you make those people obtain their legal advice from shysters who cannot get admitted, and who deprive them of the advice of good men who have not yet become citizens because of our rules; and while the theory of this is ennobling and particularly American, it seems to me it is nothing but a theory, and that we had better recognize cosmopolitan conditions, and for the sake of a theory not have a rule which would prevent us in the next twenty years from doing a little more justice to our great foreign population.

" Ronald Scott Kellie, of Michigan:

" I think it a very strange thing that anyone who wishes to be admitted to the practice of law should object to becoming a citizen of the

United States. It is such an absurdity that I should think a man who refuses American citizenship ought not to present himself for admission to the Bar.

"James Parker Hall, of Illinois:

"It takes quite a long time to become an American citizen, but if this proposition were amended so that a candidate who had taken out his first papers could be admitted, I think it would be all right.

"Ronald Scott Kellie, of Michigan:

"He can do that in twenty minutes after he lands.

"James Parker Hall, of Illinois:

"I think the point that Professor Wigmore makes is well taken. I think something less than five years ought to be required.

"Ronald Scott Kellie, of Michigan:

"We do not want any persons to become officers of our courts and administer justice unless they first become American citizens. If we have got to live here twenty-one years before we are entitled to the privileges of citizenship, I certainly protest against any foreigner exercising those privileges until he shall have first become a citizen.

"James Parker Hall, of Illinois:

"Is not that largely a matter of sentiment?

"Franklin M. Danaher, of New York:

"If the gentleman will permit me to answer, I say that it is not a matter of sentiment at all. It is a matter of patriotism, and a national and political question. * * *

"A man should not be allowed to come to this country and become a member of our Bar without first swearing allegiance to our flag.
* * *

"Alfred Hayes, Jr., of New York:

"Unless some cogent reason is presented why a member of the Bar should be a citizen, I shall vote against this rule in its entirety. If we admit teachers and professors from foreign universities, like Oxford and Cambridge, why have this rule? We have in the law school at Cornell University a very able man as librarian, who is not an American citizen. Unless there is some very good reason for this proposition, I shall vote against it.

Upon the vote being taken, the proposition was approved by the Section (34 A. B. A. Rep. 746).

In response to the request in 1910 for opinions, your Committee has received communications with specific reference to

this proposition from members of the profession in thirty different states.

Over 70% of those replying favor the proposition in its present form; 24% additional also approve United States citizenship as a prerequisite to admission, except that they would exempt Porto Ricans and Filipinos from the operation of the rule. Less than 6% are wholly opposed to citizenship as a prerequisite to admission to the Bar.

Views of representatives of the latter group are forcefully expressed by a distinguished member of the N. Y. Bar, who writes:

"I object to this rule for the reason stated by Prof. Wigmore. I also object because it is churlish and inhospitable. When Thomas Addis Emmett came to this country he was admitted to practice before he became a citizen. The same is true in other cases of distinguished men who have come to the great Republic from a land of oppression. Why should we repel such men from our Bar? We have from the beginning admitted them to the army. Lafayette, Pulaski, Kosciusko were not American citizens, but they held commissions in the Army of the United States. We have also from the beginning admitted citizens of other countries to professorships in our colleges. Shall the Bar be less hospitable than institutions of learning?"

A United States judge in North Carolina states:

"I was interested in the debate on the requirement of citizenship. Some years ago the question came before our court and was debated with much learning and ability by Judge Gaston, Judge Ruffin, Alowell, the Attorney General, and Chief Justice Taylor,—*Ex parte* Thompson, 10 N. C. 355 (3 Great Am. Lawyers 60). The application for admission by persons not naturalized was rejected. It seems that in the case of Thomas Addis Emmett the New York Court held *contra*."

The dean of one of the best known American law schools says:

"I see no reason for excluding citizens of Porto Rico and the Philippines. England, I understand, admits citizens of other countries. This may be going too far because of the possibility of international complications should the lawyer be committed for contempt; but such an objection does not apply to the Porto Rican."

A member of the Bar in active practice in Washington, D. C., declares:

"It seems to me that within our possessions a qualified applicant should be admitted, if a Porto Rican or Filipino, because if they are

not citizens, they certainly are not aliens. Indeed I understand one branch of Congress, if not both, at the last session passed a bill to admit the Porto Ricans to citizenship. But in any view, intelligent men, living in our insular possessions, who are not citizens of other nations, ought not to be barred from practising law because they are denied express citizenship under the United States. Such denial, it seems to me, would be the refinement of cruelty."

A well-known professor at the Yale Law School expresses himself thus on the point with reference to Filipinos and Porto Ricans:

"I think as a general rule that only citizens of the United States should be admitted to practice in our courts, and I cannot agree with the views of Prof. Wigmore as expressed at the Detroit meeting. I feel, however, that inhabitants of our dependencies ought in justice to be admitted, for they are as near to being citizens as they can be and in a broad—though not in a strict legal—sense, they are such."

The Chairman of the Examining Board for the State of Rhode Island feels compelled to approve the proposition as adopted by the Section, writing:

"Approved strictly on legal grounds. Ethically disapproved so far as the people of the insular possessions of the Philippines and Porto Rico are concerned."

It is suggested that in the last analysis, this Porto Rican and Filipino question would seem to resolve itself into an inquiry as to whether or not an American court should admit as a practitioner at its Bar one whom the people of the United States, through the legislative and judicial departments of the government, have refused to recognize as a citizen of the United States.

A member of the New York Bar, while in accord with the rule as approved, recognizes the political aspect of the question and would have the naturalization laws changed to meet the situation, and in that respect makes a novel suggestion, worthy of careful consideration. He says:

"The condition [requiring citizenship] should be absolute. It is my opinion, however, that the naturalization laws could be so amended as to admit without delay to citizenship and to the Bar, any alien who successfully passes the examination for admission to the Bar in a State of the Union. An alien who can, in any period

of less than five years, sufficiently master our language and, by devoting his attention to that study which above all others will familiarize him with our institutions, fit himself successfully for the Bar, has thereby earned the boon of citizenship."

One of America's best known constitutional historians declares:

"I approve the proposition as printed. Our present national situation as to citizenship in Porto Rico and the Philippines is an anomalous one, but may some day be corrected—as, *e. g.*, by admitting inhabitants of Porto Rico and giving to the Philippine inhabitants their independence."

Those present at the last meeting of the Section will recall the illuminating paper from the pen of Mr. Edward S. Cox-Sinclair, of London, barrister-at-law, Holt Historical Scholar in Gray's Inn, and a member of the Council of the International Law Association, upon "*Requirements for Admission to the Bar in Great Britain and Her Possessions and On the Continent of Europe—A General Survey.*"

Concerning this proposition, approved by the Section in 1909, requiring citizenship as a prerequisite to admission to the Bar, he declared (35 A. B. A. Rep. 824) (—the *italics* are ours):

"Every country which has been reviewed [England, Germany, Austria, Hungary, Spain, Italy, France and Belgium] has an analogous provision, save only England and Italy. It may be easy to assign historical reasons to account for the deviation from the standard of nationality in Italy; it is difficult to assign historical reasons for the case in England. *It is probable that if the matter were seriously raised in a substantial form in either country the admission of an alien would cease to be possible.* The presence or absence of an oath or declaration on admission would naturally follow the rule as to nationality. In the case of England, and in that of Italy, there is not even a declaration of fidelity to professional rules or regard for professional ethics."

In the United States there is at the present time some diversity of practice.

The following states and territories require United States citizenship as a prerequisite to admission: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Georgia, Illinois, Indiana, Kansas, Louisiana, Maine, Michigan, Minnesota, Mis-

issippi, Montana, Nebraska, New Hampshire, New Mexico, New York, Pennsylvania, South Carolina, Tennessee, Vermont, Washington, Wisconsin and Wyoming.

In the following states *either* United States citizenship *or* a declaration of intention of becoming a citizen is necessary: California, Idaho, Massachusetts, Ohio, Oklahoma, Oregon, Rhode Island and Utah.

The regulations in the remaining jurisdictions, as reported to us, are silent on the subject, but this does not necessarily imply that in practice an alien will be entitled to admission to the Bar therein without qualifying as to citizenship.

We trust that your committee may be favored with a further expression of views upon this subject.

II.

He shall also be a citizen of the state in which he is applying for admission, or prove that it is his intention personally to maintain an office therein for the practice of the law.

This proposition was approved at the 1909 meeting of the Section, after the insertion of the word "personally." For the debate, see 34 A. B. A. Rep. 746.

It will be observed that this provision would make it possible, for example, for a resident of New Jersey (or other state) located in a suburb of New York City outside the state of New York to be admitted to the New York Bar.

Of those replying to the committee's circular of inquiry sent out in 1910 more than 80% are in favor of the proposition as stated, and some would make it more stringent. As for example; a member of the Illinois Bar writes:

"This as amended I approve, but would suggest that the last clause should read, 'or prove that it is his intention personally to maintain a *permanent* office therein for the practice of the law.'"

A similar view has been received from Colorado:

"The form adopted meets with my approval. I believe, however, that the applicant should be required to make affidavit that he 'will commence the practice of law in this state within three months and will make the same his permanent and usual occupation.' The

foregoing quotation is one from the Colorado rules, and experience leads me to believe that the adoption of some such rule is highly advisable."

The three following replies indicate that the use of the word "personally" results in some ambiguity:

(1) From a member of the Nebraska Board of Bar Examiners:

"Yes (I approve) as amended by 1909 meeting, but I favor construction that no attorney can 'personally' maintain more than one office."

(2) From a New York lawyer:

"In my opinion there should be added to the proposition as it was approved the words 'and not elsewhere' so that the proposition shall express unqualifiedly what was undoubtedly the intent of the Section. In other words, the applicant should not only be a citizen of the state intending personally to maintain an office within the state for the practice of law, but he should also not intend to practice in a second jurisdiction."

(3) From another member of the New York Bar:

"If it is the intent of this Section to limit an attorney's practice to one jurisdiction, I should disapprove. If an attorney residing in New Jersey or Connecticut, with his principal office in New York City chooses, to take the examination for admission in the state of domicile for the purpose of practising there, I cannot see any good reasons why he should not be permitted to do so. It might be less difficult, for example, to practise law in the States of Massachusetts and Rhode Island than in New York State and the Federal Courts."

The dean of a law school in the District of Columbia disapproves of the proposition, writing:

"Disapproved. Either admission should be confined to *bona fide* residence, or left unrestricted. The only purpose of requiring *bona fide* residence was to prevent competition, as say between lawyers living in Manhattan with large offices and living expenses and those residing in the little villages of New Jersey. If there is to be any limitation of this kind it should confine admission to those who had been *bona fide* residents of the state for a period of not less than one year antecedently."

A professor at Yale states:

"In Connecticut we have admitted to the State Bar examinations men who have pursued their studies at the Yale Law School,

and if successful, they have been admitted to the Bar, though not in all cases intending to practise here. I can see no objection to this. We cannot, of course, give them the right to practise in other states, but merely permit them to practise here if they choose to do so."

A professor at Harvard also writes in opposition to the rule as follows:

"This seems to me somewhat severe. Our cities are, many of them, small, and a man may not infrequently, I should suppose, have occasion to be admitted to the Bar of a state where he did not intend to maintain an office."

On the other hand, a member of the Ohio Bar declares:

"I think the amended form in which the proposition was made is distinctly preferable to the original. There are certain collection firms that need control badly, in view of their abuse of the evident intent of the bankruptcy act, and it is important that where attorneys are connected with such firms, they should be amenable to all the regulations possible in a given locality. Therefore it would seem to be necessary that in order to become members of the Bar of a state, they should prove their intention *personally* to maintain an office therein for practice of law."

The views on this proposition of Mr. Edward S. Cox-Sinclair, author of the paper read at the 1910 meeting of the Section on "Requirements for Admission to the Bar in Great Britain and Her Possessions and On the Continent of Europe—A General Survey," are of particular interest. He says (35 A. B. A. Rep. 824) (—the *italics* are ours):

"An analogous rule exists in regard to the Bars in almost every country under review [England, Germany, Austria, Hungary, Spain, Italy, France and Belgium], domicile in the district in which the particular order of advocates has jurisdiction being substituted for citizenship and practice in the states. England affords no comparison, because there are no orders of advocates except the four Inns of Court, which are located in the vicinity of the High Court, and each of these bodies calls to its Bar its members, *granting them the power of practising where they will, in any of the courts of the realm and in any place in the kingdom.*"

The subject covered by this second proposition is to be discussed in at least two of the papers at the forthcoming 1911 meeting of the Section and will, therefore, not be further elab-

orated here. It is well for us to remember in considering it, that in some states where admission matters are still under the control of County Courts, Chinese walls remain in evidence, admission to the Bar of one county not permitting practice in another within the same state, except upon grounds of comity *pro hac vice*, and frequently not even in this way unless a member of the local Bar is taken into the case; also that some County Courts, as the result of the attitude of the local Bar, decline to admit a candidate from another county within the same state unless it is his intention to open and permanently to maintain his *principal* office in the county in which he is applying for admission.

III.

Character credentials on application for admission shall include the affidavits of three responsible citizens, two of whom shall be members of the Bar, and the affidavits shall set forth how long a time, when, and under what circumstances those making the same have known the candidate.

This proposition was approved at the 1909 meeting of the Section after a requirement of affidavits was substituted for certificates upon suggestion of Secretary Danaher of the New York State Board of Law Examiners (34 A. B. A. Rep. 747).

The replies, in response to your committee's request in 1910 for opinions, indicate this proposition to be almost unanimously approved except that several consider that a requirement of certificates rather than affidavits would be preferable, on the ground that it is best not to multiply oaths.

On this point a leading member of the New York Bar writes:

"It seems to me that the change recommended by Judge Danaher was unfortunate, and that the rule in its original form was preferable. All experience shows that the more you multiply affidavits, the more you lessen the solemnity of the oath. Any man who is 'responsible' will give a certificate with as much care as he will make an affidavit."

So also the Chief Justice of one of our Western states expresses himself as follows:

"The third proposition I would approve in its original form, so that it shall provide for certificates instead of affidavits. At least

a certificate from a member of the Bar should be sufficient without requiring that it be put in the form of an affidavit."

On the other hand, a member of the profession residing in New Hampshire, whose opinion is entitled to great weight, declares:

"Proposition seems satisfactory. Whether 1909 amendment is preferable you can fairly consider; but the 'affidavit' of a dishonest member of the Bar should be more trustworthy than his certificate."

In submitting this proposition to the Section in 1909, your committee stated in its report:

"It has been suggested that it may be a hardship for a candidate to secure certificates from *two* members of the Bar. *Query*: Will not such provision make it incumbent upon a student during his course of preparation to be in touch with at least two members of the Bar?"

With reference to this point, one of the best-known members of the Harvard faculty states:

"It seems to me a somewhat unnecessary hardship to make it incumbent upon a student during his course of preparation to be in touch with at least two members of the Bar."

So also a member of the Bar of Colorado writes:

"I believe the certificate of one member of the Bar is sufficient and that requiring a student to keep in touch with two members of the Bar will in many cases work a hardship without a corresponding benefit."

Likewise the dean of a Western college declares:

"Proposition or rule III does not, in its present form at least, meet with my approval. First, it may be difficult, however good his character, for the student to obtain *affidavits* from two members of the Bar. I can easily conceive of the high school graduate who, during his high school course, has not been acquainted with a member of the Bar and who, during his law course immediately following, has not had the opportunity of becoming acquainted with a member of the Bar, unless one of his law instructors is also a member of the Bar. The suggestions following this proposition that it would make it incumbent upon the student during his course of preparation to be in touch with at least two members of the Bar is hardly satisfactory. This is a temptation to assume a character and the value of an affidavit as proof of real character might well be doubted. Second, the proposition takes no account of the knowledge of the character of the student which the dean or law school faculty may have; a certificate, not an affidavit from

such dean or faculty, should, if not in itself sufficient, be a substitute for at least two of the affidavits for which the rule provides."

On the other hand, a former president of the Connecticut Bar Association and a professor in the Yale Law School, states:

"If I remember rightly, the New Haven County Bar required certificates as to moral character from two members of the Bar of the county before the rules required this. I do not think this has ever worked hardship, and I think it should be required."

Similar views are expressed by the dean of one of the law schools in the District of Columbia, who would make the requirement even more stringent. He writes:

"Approved, with the suggestion that the two members of the Bar giving the certificates should be personally known to the examining committee as men of high standing and clean practice."

And the Chairman of the Rhode Island Board of Bar Examiners thus declares himself:

"Approved. Any feature so important to the public, the Bar and the Courts as possession of character by a lawyer, should be fundamentally among the controlling qualifications for admission to the Bar."

IV.

The lawyer on admission shall be designated attorney and counsellor, and not merely attorney.

This point was disapproved at the 1909 meeting of the Section. For the debate see A. B. A. Rep. 747-750. The range of the discussion was such that it may be doubted if the vote was squarely on the proposition as printed; however this may be, the question was debated as to whether or not it would be well to have in America such a distinction as, for example, has existed in England from time immemorial between the barrister and solicitor, or in New Jersey between attorneys and counsellors, where the candidate in the first instance is admitted only *as an attorney*, after the service of a three years' clerkship in an office and the passing of his Bar examination, and only subsequently is admitted *as a counsellor* after spending a novitiate of three additional years in practice before the lower courts, and passing a further Bar examination.

It was not the intention of your committee to raise this question, but merely to suggest that it would be well for the standard rules to provide that the candidate on admission should be entitled to use the full title "attorney and counsellor." It may well be doubted if standard rules for the Bar would be the most appropriate place in which to initiate so great and fundamental a reform, if such it be, in the constitution of our profession. In the judgment of your committee such a draft for rules, as is now in course of preparation, if it is to be of substantial service in those jurisdictions where changes in the rules are in contemplation, should represent only the consensus of the best professional opinion and practice *at this time*, and not attempt to go further in the way of reform. However, the debate on Proposition IV was opened so interestingly by Professor Kales, that we quote therefrom as follows (34 A. B. A. Rep. 747-748) :

" Albert M. Kales, of Illinois:

" The proposition as stated seems to touch a vital difficulty in this question of requirements for admission to the Bar. I have noticed to-day a constant tendency towards higher requirements on the one hand, and also a tendency in the opposite direction. It seems to me that when you examine the necessary divisions of practice at the Bar, you will find that there is one standard of requirement for one kind of practice, and a more difficult standard for another kind. In other words, as long as a member of the Bar is an attorney in the ancient sense of that word, a man who seldom if ever handles litigated problems in the courts, he may have a much more meager legal education than a man towards whom you look to conduct the great litigated problems of a large and important community. It seems to me, therefore, that this rule binds the American Bar Association to the general levelling proposition that there shall be no difference whatever between men who are mere practitioners at the Bar and those who practice as advocates.

" While it is not possible to do anything finally in the formulation of these rules today, this suggestion should receive some consideration, and admission to the Bar as an attorney merely might well be had upon a lesser legal requirement than the subsequent admission as counsellor at law; and I would vote against this rule on the ground that a possible distinction along this line should be worked out.

" Ronald Scott Kellie, of Michigan:

" I would like a little information from the Chairman of the committee. Is his idea that the certificate granted to the applicant shall indicate that by merely calling him 'attorney and counsellor'?

"Lucien Hugh Alexander, of Pennsylvania:

"The thought of the committee is that the certificate of admission should set forth that the candidate is admitted as an attorney and counsellor; in fact that there ought not to be any distinction at the Bar in America between an 'attorney' and 'counsellor.'"

The balance of the debate (*Id.*, pp. 748-750) was taken up mainly with a discussion as to whether or not a lawyer on admission should have the titles "solicitor and counsellor in chancery," "proctor in admiralty," etc., and will not be reproduced here.

The replies to the committee's circular of inquiry sent out in 1910 seem to indicate that the use of the title "attorney and counsellor" has the approval of a majority of those replying; however, the scope of the 1909 debate in the Section may have caused some confusion in the minds of the writers as to the precise point to be approved or disapproved, and it is not entirely clear from the replies what the consensus of opinion is on this subject, but the latter is in no sense one of vital importance.

The chief justice of one of the Western states expresses himself upon the proposition as follows:

"This should have been adopted. The distinction between attorneys and counsellors has been disregarded by the legislatures of all the Rocky Mountain and Pacific states, in prescribing the qualifications for admission to the Bar, and has fallen into disuse in most of the states in the Union, especially those in which the distinctions in form of procedure have been abolished. I do not think that anyone should be declared qualified to exercise the office of either attorney or counsellor until he possesses the qualifications necessary for both."

One of the ablest members of the New York Bar writes:

"I wish we could restore the distinction between attorneys and counsellors. Half the lawyers at the Bar of New York City rarely try cases and do not know how. They may be good business men. But if they are to be licensed as competent to try cases, I submit that previous experience as an attorney in the preparation of cases for trial should be required."

Another member of the profession in New York asserts:

"There is no one thing which in my opinion would more tend to better professional standards than the separation of the business of solicitors from the professional acts of barristers. The high

standing of the English Bar is undoubtedly very largely due to that separation. I think the tendencies should be rather for separating the two branches than toward uniting them."

To the same effect is the following from another member of the New York Bar, who would favor a movement toward the New Jersey system:

"I think the standard of the profession will be materially raised if an applicant is required to follow his calling as an attorney for some stated period before he is admitted to the rank of counsellor. A serious difficulty in maintaining the standards of the Bar is that little opportunity is afforded to discover the moral worth of an applicant for admission, until after he becomes a fullfledged member of the Bar. It seems to me that if a course of two or three years' practice as attorney should be a prerequisite to the higher rank as counsellor, failure to appreciate moral or ethical standards would manifest itself and the committee on character, called upon to consider the attorney's application for admission to the rank of counsellor, would be in a better position to act intelligently upon the application."

On the other hand, another New York lawyer declares:

"The designation 'attorney and counsellor' is probably as good as any. The tendency in this country to differentiate between the two, as is done in England and New Jersey, should be opposed; since any movement to make of the profession a 'closed shop' seems highly undesirable, opposed alike to efficiency and scholarship. A candidate does not object to high standards for admission, but he does desire, when the long period of preparation is completed, to be admitted to the whole estate. I think it would be desirable to provide an exceedingly rigid examination in all proper subjects for those who aspire to the bench; it would be some gain, at least, to limit the district leader's nominations to men of character and learning."

The views on this point of Mr. Edward S. Cox-Sinclair, of London, author of the paper read at the 1910 meeting of the Section on "*Requirements for Admission to the Bar in Great Britain and Her Possessions and On the Continent of Europe—A General Survey*," are of peculiar interest in this connection. He states (35 A. B. A. Rep. 825-826):

"In Europe the practice differs widely but two main groups of practice are apparent. In England (where the attorney is becoming powerful as compared with the advocate), in France (where the *avocat* is becoming powerful as compared with the *avoué*), in Spain (where the branches appear to maintain their relative strengths), and

in Italy (where the branches tend to coalesce by reason of the likeness in the training and facility of exchange), in all these, and in allied systems, there is a complete separation in the functions of the two classes of lawyers. On the other hand in Germany, in Austro-Hungary and in Belgium, and equally in the colonies and dependencies of Great Britain, there is a fusion between the two branches of the profession, which, except in the case of special jurisdictions, seems complete. On the whole it would appear that there is a tendency towards fusion which, to a certain extent, will tend to diminish the academic, and to increase the practical, aspect of training."

The following views have been received from a member of the profession in the State of Washington on the subject of the lawyer's title in America:

"I think the lawyer, on admission to the Bar, should have some distinguishing appellation authorized by law, and it appears to me that 'Attorney' or 'Attorney and Counsellor,' which has become generally accepted and is generally used, is as honorable and acceptable as any, and therefore, in my humble opinion, this proposition should have been approved, or at least a suggestion made, of some more fitting appellation, being adopted instead."

One of the best-known members of the Connecticut Bar expresses himself as follows:

"It seems to me the debate before the American Bar Association shows that the rule should not designate the title to be given to the candidate on admission, but should rather specify the rights to which he is admitted, leaving the title to be regulated by the practice in each state. It would meet my idea to have the rule worded as follows: 'Lawyers on admission shall be entitled to enter on all branches of the practice of the legal profession; there shall be no distinction between the rights exercised in England by the attorneys or solicitors and those exercised by the Barristers.' This may not be very happily worded, but you will get my idea."

While the question of the lawyer's title is not one of supreme importance, nevertheless, as it is usual to embody the same in the admission certificate, the committee hope that they may be aided by a further expression of opinion upon this subject in order that the standard rules, when finally drafted, may beyond peradventure represent the general consensus of opinion.

V.

Three years' practice in states having substantially equivalent requirements for admission to the Bar shall be sufficient in the case of lawyers from other jurisdictions applying for admission on grounds of comity.

This proposition was approved at the 1909 meeting of the Section (34 A. B. A. Rep. 750).

While the majority of the replies received to our 1910 request for criticisms indicate widespread approval of the proposition in this form, nevertheless some very seriously raise the question as to whether three years' practice in another state is a sufficient period to warrant admission on grounds of comity. The importance of increasing the period to at least five years has been very earnestly pressed upon the attention of your committee. There is at present much diversity of practice throughout the country. From the information before us, we find that for admission on grounds of comity Rhode Island requires *ten* years' practice in the state from which the candidate comes, and Arizona *six* years.

The following states require *five* years' practice: Colorado, Illinois, Maryland, Minnesota, Nebraska, New York, Ohio, Pennsylvania, South Dakota and Tennessee.

The following *three* years: Connecticut, Massachusetts, Missouri, New Mexico, North Dakota and Virginia.

Wisconsin requires *two* years, and the following states *one* year: Iowa, New Hampshire, Oklahoma and Vermont.

The remaining states, from our latest information, do not seem to demand any particular period of practice in the state from which the applicant comes.

We have received but two objections to proposition V as too stringent, one of the best-known members of the Bar of Colorado writing as follows:

"I do not favor Proposition V. The rule of the Colorado Supreme Court requires five years' practice in other states as a condition for admission on grounds of comity. As an illustration of how this rule might operate, let us suppose that Justice ——— of the Supreme Court of ——— should migrate to Colorado and desire and apply for

admission to practice. He went upon the District and from there to the Supreme Bench before he had practised for three years. He is admittedly one of the best judges in the country. Yet to secure admission in Colorado he would be obliged to submit to the same examination provided for the law student. I think if a man has been admitted after examination under the rules existing in the state of his residence, he should be admitted without further examination in the other jurisdictions of the country."

So also the chief justice of another Rocky Mountain state declares:

"I believe that the requirement of three years' practice in other states is unnecessarily long. Most of the states have or will have reasonably stringent regulations for admission upon examination, and I am of the opinion that the required period of practice in the state where the candidate was originally admitted upon examination should be so long only as will establish that the candidate was admitted in the other state and entered into practice therein in good faith, and not for the purpose of evading any of the rules governing the admission of lawyers in any other state where he might subsequently apply."

Contra to this view there have been a number of earnest expressions of opinion from members of the profession urging that a longer period than three years should be incorporated in the standard rules.

The Secretary of the Minnesota State Board of Bar Examiners writes:

"Our Supreme Court has fixed the period at five years, and I think that short enough."

The Chairman of the Rhode Island Board of Bar Examiners asserts:

"My opinion is that the requirement for admission to the Bar on the ground of comity should be in any event at least five years' practice, the candidate to furnish satisfactory evidences of character and standing at the Bar of the state in which he has practised."

The editor of the *Central Law Journal* declares:

"Some experience in Missouri and adjoining states has suggested that something more than three years' practice be required from non-resident practitioners applying for admission. For instance, five years would be better, it would discourage the evasion of the rules by students impatient of the strict rules of some particular state. I suggest also that unless the educational standard of the state from which the

applicant comes is as high as provided in Section VIII, this requirement should be insisted on. In other words, no evasion should be permitted, on grounds of comity, of the most important and essential qualifications of an attorney."

Another Missouri lawyer asserts:

"This state, and I believe other states, have always suffered and many of them are still suffering from too lax regulations concerning men who have practised in other states and who come to practise at our Bar. We have to-day men practising at our Bar who could not pass our examination either from the mental or moral standard of the men. I believe that, excepting cases where the non-resident lawyer is associated with local counsel, no non-resident should be allowed to practise in the state unless he has passed the same examination as the resident attorney is compelled to pass."

Somewhat similar views are expressed by a judge in the State of Washington, who says:

"I assume that this applies to lawyers seeking admission under Proposition V as well as to student applicants. Upon that assumption I wish to suggest that very strict requirements be made as to the past life and present standing of the applicant at the Bar of the state from which he comes. Such applicant should be required to produce a certificate of good standing in the courts of the state from which he comes, in addition to proof of his good moral character.

"My reason for the suggestion is that in this broad land of ours it is easy for a lawyer who has committed some act, which renders him unable to practise law, to leave that state and go to some distant state and be admitted to practise there, upon the production of his certificate of admission, which may be hoary with age, and the affidavits of two or more persons (all too easily obtained) of his good moral character. It has been reported to me that a former practitioner in this state, after conviction and serving sentence for the crime of obtaining money under false pretenses, went to California and is there engaging in the practice. Another case has been reported of a lawyer, convicted of forgery, who, after he had served his term in the penitentiary, has gone somewhere—and who knows but he is practising law there? Another case of a lawyer charged in a central state with a felony, but who escaped conviction on a technicality, came to this state and engaged in the practice. It requires but little reflection to satisfy anyone that under the laxity of lawyers and judges in the matter of admission (and particularly so with reference to the admission of lawyers from sister states) such examples as above stated might easily be duplicated daily."

A member of your committee calls attention to a strikingly similar set of circumstances, which serves to emphasize that even the certificate of an appellate judge of recent date is not always enough to protect the new state to which the applicant of questionable reputation immigrates. The facts are as follows:

A member of the Bar in one of our American states, following a prosecution by a committee of the Bar, was disbarred for dishonest professional conduct after a full and complete hearing. Thereupon, through able counsel, he appealed to the highest Appellate Court of the state, which, after an elaborate argument upon the record, sustained the disbarment. The man then removed to another state but through his counsel applied to a judge of the Appellate Court which had sustained his disbarment, for a certificate of good moral character and professional standing. This the judge gave, perhaps on the casuistical theory that he had only been disbarred from the Bar of the lower court, and that in consequence he was entitled as of right to a certificate of good moral character and professional standing from a judge of any court of whose Bar he still happened to be a member. In the state referred to, disbarment from the Bar of the lower court did not *ipso facto* disbar from the Appellate Court, and it seems that the Bar committee had neglected to move the man's disbarment there, and the Appellate Court had not acted on its own motion. On this certificate, which was then of recent date, the disbarred man applied for admission in another state, but his character there happened to be known, and a copy of the record of disbarment was sent for with the result that his application was denied.

A member of the Committee on Discipline of the New York County Lawyers' Association, who is also a member of the Executive Committee of the Bar Association of the City of New York, disapproves of proposition V on the ground that the period should be five years and not three. He writes:

"Disapproved. I am a member of the Committee on Discipline of the New York County Lawyers' Association; and the result of my observation there, as well as on the Executive Committee of the City Association, has been that a large majority of the cases of moral obloquy on the part of practitioners has been found among those who

have been admitted on grounds of comity toward other states. I think that three years' standing at the Bar of another jurisdiction is too short a time for a young lawyer to establish himself sufficiently to permit his admission in another state. I would suggest that the period be five years at least."

This matter, during the last year or two, has received most careful consideration in the State of New York and the highest Appellate Court in that state has adopted revised rules of admission effective 1 July, 1911, *inter alia*, raising the length of practice in the state from which the applicant comes entitling him to admission in New York on grounds of comity, from three to five years, and changing the previous requirement that a lawyer from another state could be admitted to the examination for admission if he had practised for one year therein, and now requiring him, in order to be entitled even to enter the examination, to have practised three years in the state from which he comes.

The New York Court of Appeals which has now given to New York the most thorough and complete admission rules in the United States, was aided in its deliberations not only by the Board of Bar Examiners and the various law school authorities of the state, but, *inter alia*, by two able committees representing respectively the Bar Association of the City of New York and the New York County Lawyers' Association, both of which submitted elaborate memorandums to the court on this and other propositions.

A committee of seventeen, of which Mr. John R. Dos Passos was Chairman, represented the New York County Lawyers' Association in the matter with reference to the subject covered by our proposition V. This committee said:

"Rule II of this court provides that applicants for admission to the Bar of this state from other states shall receive a license to practise upon the mere production of a certificate stating that they had been admitted to practise and had practised three years as an attorney and counsellor in the highest court of law in another state.

"Until very recently they were not even required to show good character.

"Attention having been called to the fact that many persons of indifferent moral character and standing were being admitted, the Ap-

pellate Division of the First Department in July, 1909, adopted a rule requiring such applicants to be approved as to character and qualifications by the Committee on Character.

"We now respectfully apply for a complete abrogation of Rule II of this court so that lawyers from other states hereafter seeking to practise in the courts of this state shall be subject to the same period and course of study as our own citizen-students.

"Under the rule in question many individuals have been admitted to our Bar absolutely destitute of the necessary qualifications and character to fit them to practise law in this state. For obvious reasons, details cannot be spread upon the record; suffice it that in analyzing the causes which have led to the lowering of the general standard of the Bar much may be justly ascribed to the fact that individuals in large numbers without social or professional position in their own states have availed themselves of this enticing opportunity. Migrating into this state in large numbers, they have been made full-fledged New York lawyers by simply producing a certificate provided for by Rule II.

"In the early days when this Rule was first adopted, few availed themselves of the privilege. So far as we can discover, it was adopted by this court originally as an act of pure courtesy to enable a few distinguished lawyers from other states, whose high reputation caused them to be retained all over the union, to practise here, but the rule has been used for purposes far beyond its spirit and intention as we have shown. It is now taken advantage of not by the few for whom it was made, but by the many who were never intended to come within its scope. As now used the rule in question unreasonably discriminates against our own student-citizens. In the case of foreign attorneys no investigation as to the knowledge of the applicants of New York law is required." * * *

"One thing is certain, that it is not a prerequisite that a lawyer from another state should have any knowledge of the laws or practice of this state, but he is allowed to enter promiscuously into the profession and to hold himself out as possessing sufficient legal knowledge, skill and training to represent clients here, and he is awarded a certificate under the seal of a Supreme Court of this state which is an official declaration that the person holding it is learned in the law and qualified to give legal advice to all those who employ him—when as a matter of fact, nothing is known of his qualifications to practise law here.

"The laws of the State of New York are, it may be said, *sui generis* in these particulars: that they consist of a large body of statutes with voluminous civil and criminal codes which require years of earnest study even to comprehend, and a lifetime to master. To speak within the bounds of reasonable criticism, it is unfair to the public to grant

certificates to persons who have undergone no examination. No rule of state comity requires us to admit persons to practise law in this state who have not previously demonstrated some knowledge of its laws.

"A lawyer who has passed no examination should not receive the certificate of our Supreme Court entitling him to proclaim by official fiat that he is worthy of the confidence of the community.

"Courtesy to the members of the profession of other states only requires that in isolated instances they shall be heard in our courts. This privilege is invariably granted by our courts. It has, however, been flatly refused to New York lawyers in at least one neighboring state, and a rather peremptory notice given from the Bench by one of its chancellors that the practice of New York lawyers appearing before its courts was not looked upon with favor and should be discouraged.

"It is vain to attempt to maintain a high moral and intellectual standard or a proper *esprit de corps* in our profession as long as this rule opens the door indiscriminately to those who neither know anything of our statutes, procedure and forms of laws nor of customs or professional traditions.

"The profession has, as we are informed, never brought the attention of this court to the evils which flow from the existence of this rule. It has simply been tolerated by the Bar as a whole, while it has been deprecated by the few who have given some attention to the subject. * * *

"Courtesy ends to the Bar of foreign states when we permit them to act as counsel in occasional instances. Nor would the evil be extinguished by limiting the privilege to lawyers who have been in active practice for five years. An individual applying for admission to the Bar should be willing to show that he has a knowledge of our laws and practice."

Dean George W. Kirchwey of the Columbia Law School, and a member of Mr. Dos Passos' committee, was not wholly in accord with the majority view expressed in the memorandum, and, while conceding that the period should be five years, advocated modifications as follows:

"As to the third amendment proposed, I doubt whether it is wise or compatible with the courtesy which the Bar of our state owes to the members of the profession in a sister state to require the latter, as a condition of practising in New York, to pass the examination prescribed for our own novices. At the same time the evil on which your memorandum expatiates does exist. Would the condition not be met in a satisfactory manner by the adoption of the

amendment proposed by the Judges of the Appellate Division in the memorandum recently submitted by them to the Court of Appeals restricting the privilege of admission on motion to lawyers who have been in active practice in another state for a period of not less than *five* years? I would suggest as a further safeguard that all such candidates be required to present themselves, and the evidence on which they base their claim to admission to our Bar, to the proposed Committee on Admission to the Bar.

This recommendation embodies substantially what the Court of Appeals incorporated in the rules effective 1 July, 1911. These rules may be had in pamphlet form on application to Hon. Franklin M. Danaher, Secretary Board of Bar Examiners, 86 State Street, Albany, N. Y.

In this matter, the Bar Association of the City of New York was represented by a committee of three, of which Hon. Francis Lynde Stetson, the President of the Association, was the Chairman. This committee, after devoting much study to the subject, embodied their recommendations to the court in the following form:

"The Justices of each Appellate Division in exceptional cases where lawyers from another state having substantially equivalent requirements for admission to the Bar of this state, first being satisfied by proper examination of the character of the applicant, may admit to practice in this state any person who shall have practised for five years consecutively as attorney and counsellor in the highest court of law in such other state; such applicant having first given notice of his intention to apply for admission in a newspaper regularly designated for publishing legal notices for the department in which such application shall be made, or if there be no official paper then in the official legal journal in the City of New York."

VI.

There is no necessity for the insertion in the rules of a reciprocal comity provision; that is, of a proviso prohibiting the admission of lawyers from other states on grounds of comity, unless the state from which the lawyer comes extends similar courtesies to lawyers from the Bar of the state in which the candidate is applying for admission.

This negative proposition was approved at the 1909 meeting of the Section (34 A. B. A. Rep. 750).

Fully 90% of the replies to our 1910 circular of inquiry with reference to this point are in this form: "In favor of the proposition," "Unobjectionable," "I heartily agree," "Yes," "I approve of this," "Yes, there is necessity for this," "Good and should be adopted," "Admirable," etc., etc.

In view of the fact that a number of states have a reciprocity provision upon this subject incorporated in their rules, your committee is in some doubt as to whether the Bar generally considers there should be such a provision in rules of admission. We will accordingly be glad to have a further expression of view upon this point. One member of the profession in New York expresses himself emphatically, stating:

"I think there is a necessity, and that the comity should be limited to those states extending similar courtesies."

VII.

Students shall be officially registered at the commencement of their course of preparation for the Bar, upon report of the State Board as to fitness. The board's report shall be based upon its inspection of the candidate's credentials establishing that he has passed the required academic examination. The registration shall be with the clerk of the highest Appellate Court. A candidate removing from a jurisdiction having similar standards for registration may have the registration transferred. Nunc pro tunc registrations may be permitted according to the present New York practice, which allows such registration only when the candidate had the requisite education at the date as of which he desires to be registered, and in a case where there has been no laches on his part.

At the 1909 meeting of the Section, this proposition was approved as printed. For the debate see 34 A. B. A. Rep. 750-753.

The replies to the committee's 1910 circular of inquiry are overwhelmingly in favor of the proposition, except that some law school authorities express the fear that the proposition might work a hardship in some cases.

Your committee's report in 1909 stated:

"Registration of students of law has been required in Pennsylvania for many years and the system has worked admirably."

There has also long been a similar system in New York State and during more recent years in Connecticut, and good results are said to have been accomplished.

On this subject, Mr. Edward S. Cox-Sinclair, of London, in his paper in 1910 before the Section on "*Requirements for Admission to the Bar in Great Britain and Her Possessions, and On the Continent of Europe—A General Survey*" (35 A. B. A. Rep. 809-828), states:

"The Official Registration of Students at the Commencement of their Course of Preparation for the Bar.—It will be observed that this exists in its highest form in England where admission to an Inn of Court and the closest associations with it during at least three years is, and always has been, an essential. It exists also in France and Belgium, the system of the '*colonnes*' in the former case, and the '*stage*' in the latter case affording a stringent registration and a continuous supervision, only less than in England. In a far less degree it seems (if at all) to exist in Spain, in Germany and in Italy."

The Secretary of the Minnesota Board of Bar Examiners writes:

"We have no registration students in this state, but think there should be."

On the other hand, a well-known professor at Harvard declares:

"I think the requirement of registration is likely to work serious harm and injustice to students at law schools like ours. Nearly three-fourths of our membership of 765 come from other states than Massachusetts (including every state but two in the Union). It often happens, naturally and properly, that these men are quite uncertain until late in their course where they will settle, and consequently are not in a position to register anywhere; and the faculty are clearly of opinion that it is a good thing to maintain easy means of accommodating supply to demand by sending graduates to any state where there is a good opening *at the time of graduation*. In other words, registration, while it may work well for men who prepare in law offices or schools of a strictly local kind, is very different for schools of a national character. Why should not entering such a school (or indeed any regular law school) take the place of registration for any state?"

Another Harvard professor says:

"I am not in favor of this. At the Harvard Law School a large number of the graduating class have not decided where to practise. An excellent opportunity in any portion of the United States will in-

duce such men to accept it. I receive from widely scattered parts of the United States inquiries from established lawyers for promising graduates and in this way maintain a kind of intelligence office. This practice I regard as desirable from every point of view, but it would be interfered with by any requirement of preliminary registration, unless a student were allowed to register originally in a state, in spite of his knowledge that very probably he would not practise there, and was also allowed to transfer such registration, at will, elsewhere. If he were allowed to do this, registration seems a mere farce. I do not wish to be understood as objecting to satisfactory academic training for applicants, but I see no reason why a candidate should be compelled to submit to inquiry as to this prior to his course of legal studies."

This last criticism is perhaps answered by the decision of the New York Court of Appeals in Moore's Application (108 N. Y. 280) upon an application to permit proof of general educational acquirements to be presented subsequent to the commencement of the candidate's legal education. The court, *inter alia*, said:

"This rule was adopted by the court in 1882, has been extensively published in the rules and otherwise since and has, from the time of its adoption, been uniformly enforced in the examination of students throughout the state.

"There would seem to be no valid reason why a person called upon to determine the to him important question of selecting an avocation for life should not have made himself familiar with the conditions imposed by law upon the privilege of pursuing such avocation. Notwithstanding this fact, it is apparent that many students have heedlessly remained in ignorance of the rule until their period of study had nearly or quite expired, and have then come to this court with applications to be exempted from its operation. The object of this rule can be attained only by its uniform and strict enforcement. It was clearly its intention, by requiring certain intellectual qualifications on the part of students when commencing their course of legal studies, to insure, as far as possible, the attainment of the ability required when finally licensed by the court to perform the responsible and important duty of advising clients as to their legal rights and duties. * * *

"Here the object of the rule was to require at the commencement of the clerkship certain specified proof of the student's qualifications. This proof cannot be allowed to be subsequently supplied without defeating its object and practically annulling its provisions. * * *

"The application should be denied. All concur. Application denied"

(Accord: Matter of Mason, 140 N. Y. 658; Matter of McLeer, 151 N. Y. 663; Matter of Klein, 155 N. Y. 696.)

The present *nunc pro tunc* registration provision of the New York Court of Appeals is covered by its rule IX:

"When the filing of a certificate, as required by these rules, has been omitted by excusable mistake, or without fault, the court may order such filing as of the proper date."

A member of the profession in Minnesota suggests somewhat similar objections to those raised by members of the Harvard faculty. He says:

"My suggestions as to proposition VII would be that there ought to be a provision so that a student in one state might cover a part of the time there and be subsequently registered in another state."

So also another lawyer, writing from the state of Washington, declares:

"While I approve of this as a general principle, still I think some amendment should be made to cover the case of a man who has no particular ties at any one place and while studying law in a law school has not made up his mind as to where he shall practise."

Your committee suggests that objections of this character are answered by the provision of proposition VII referred to in the following statement from a member of the Bar in New York:

"Especial approval of the following provision of this proposition: '*A candidate removing from a jurisdiction having similar standards for registration may have the registration transferred.*' Standard rules designed for all the states should above all be flexible in matters of this nature, to avoid injustice and loss of time where the candidate removes from one jurisdiction to another."

VIII.

No candidate shall be registered as a student at law until he shall have passed the entrance examination to the collegiate department of the state university of the candidate's state or of such college as may be approved by the State Board of Law Examiners, or an examination equivalent thereto conducted by authority of the state.

This proposition was approved by the Section at the 1909 meeting after some amendment thereof. For the debate thereon, which is too long to reproduce here, see 34 A. B. A. Rep. 753-757.

In submitting this proposition to the Section in 1909, we stated:

"Within some states the high school standard varies so greatly that it seems unwise to specify graduation from a high school as adequate academic preparation; on the other hand, it is not unreasonable to require that the candidate on taking up the study of the law shall have passed *at least* the examination demanded for entrance to the state university or its equivalent."

The responses to our 1910 request for criticisms indicate that the proposition in its present form probably represents as far as may be possible the present consensus of opinion at the Bar.

There have, however, been a few adverse criticisms. A member of the Pennsylvania Bar writes:

"While I do not feel myself competent to criticize said report in any of its recommendations, I feel impelled to say that it appears to me that the ideal prerequisite to registration as a law student would be satisfactory evidence of completion of a full four years' collegiate course or its equivalent, and that the American Bar Association should work unceasingly toward the establishment of such standard."

The editor of *The Legal Intelligencer* of Pennsylvania declares:

"I am not entirely in sympathy with Paragraph VIII, which requires the applicant for registration to pass entrance examinations in the academic department of the state university, etc.; I think this standard is possibly somewhat lower than that required in Pennsylvania, and believe the standard should about correspond to the requirements for admission to the junior class of a college of fair standing."

So also a member of the New York Bar writes:

"This requirement is too low; qualifications should equal those at end of second year in college."

Still another member of the New York Bar asserts:

"The proposition as approved if not sufficient is probably the best that can be obtained at present in this direction. Later on doubtless more severe conditions will be advantageously required."

On the other hand, a time-worn objection to higher educational standards comes from the pen of one of the most respected members of Colorado's senior Bar, in form as follows:

"Rule VIII is altogether wrong. Some of the greatest American lawyers and Judges never enjoyed the advantages of a preliminary education such as Rule VIII requires. Had it been in force in the past these gentlemen would have been disqualified to enter the profession which they afterwards adorned. If a man has, or if during his period of study he is able to acquire the rudiments of a good practical education it should be sufficient. We have no right, legally or morally, to exclude from our profession the poor boy unable to secure the advantages of such an education as Rule VIII requires from beginning, continuing and completing the study of the law, and from subsequent admission to the Bar."

A Maine lawyer writes:

"We have no such requirement as this in Maine and our failure to have such has caused not only serious inconvenience to the Board of Examiners, but has also resulted occasionally, in my opinion, in a person being admitted who is absolutely lacking in the fundamental elements of education."

The dean of the National University Law School strikes with vigor at the form of the proposition, stating:

"Disapproved. Principally for the reason that if a general standard is to be adopted of preliminary education that purpose is defeated rather than subserved by this clause. State universities have different standards for admission to the different courses, and the universities of different states differ greatly in this particular. It seems to be generally conceded that there should be some examination for admission to the Bar upon non-legal topics, that is to say, upon academic subjects with a view to testing the general education of the applicant. It should suffice that the applicant is able to pass this examination at any time before presenting himself for the law examination. And, to secure uniformity of standards in the academic examinations those topics, a knowledge of which is deemed essential, should be made the basis of the examination in every state. In other words, No. VIII should be elaborated so as to set forth the subject-matter of the standard state examination. It should be open to students at any time without reference to the period when they commenced the study of law, and should be conducted by a committee also appointed by the Court of Appeals of the state, corresponding to the committee of five law examiners. The appointment of a committee in this manner would have the advantage of removing them from school politics and giving for instance to the state law school no advantage over the other schools in having the entrance requirements controlled by people connected with the state university."

If absolute educational uniformity throughout the country is a *desideratum*, then the position so clearly stated is unanswerable. Your committee, however, suggests that it may be doubtful if such uniformity could with advantage be insisted upon at this time. General educational standards in different parts of the country vary. We question if admission to the Bar in any particular state should, at this stage of our development as a people, involve any higher educational test than the community itself affords through its state university.

A member of the Michigan Board of Bar Examiners writes:

"This section as amended at the 1909 meeting is reasonably satisfactory. In Michigan practically all of the high schools are good enough so that their diploma admits to the state university without examination."

A leading member of the profession in Connecticut writes, concerning proposition VIII:

"So good that I do not see any improvement which would have any practical possibility of adoption."

IX.

Proof of moral character shall be required as a prerequisite to registration.

This proposition was approved at the 1909 meeting of the Section (34 A. B. A. Rep. 757).

It has been since almost unanimously approved by those replying to the committee's 1910 request for criticisms.

The chief objection to it comes from one of the most respected members of the Connecticut Bar, who writes:

"I do not think it necessary to require proof of moral character at this stage. This would apply to boys of 17 or 18 whose characters are often unformed, and injustice might be done by depriving a boy of his right to study law merely because he has not yet come to take a serious view of life. Our test of character before admission to the Bar is as severe as we know how to make it. Each man must file a notice of intention far in advance of the examination, and the names of all candidates from any one county must be approved at a meeting of the Bar of the county after notice to all its members. In this county the committee of the local Bar carefully considers all

cases, and in some instances has made long and searching investigations. The Examining Committee also investigates all cases, when there seems to be any reason to do so."

Another Connecticut lawyer writes us asserting:

"Rule IX should be made more emphatic; it is a common requisite very generally now, if not universally, but it is not enforced rigidly enough."

X.

Student candidates for admission to the Bar, in order to be eligible for the examination for admission, shall have studied either in an approved law school or bona fide served a regular clerkship in the office of a practising attorney during the required period of preparation.

Note—Much material of value relating to this proposition will be found in the discussion under Proposition XI, *infra*.

Proposition X was approved at the 1909 meeting of the Section. For the debate see 34 A. B. A. Rep. 758.

No one of the entire sixteen propositions has received more hearty approval than has this one, judging from the replies received to our 1910 request for criticisms; but three members of the profession writing us, regard it as too stringent, and some consider that the time has come for higher standards than this proposition and proposition XI outline.

A well-known member of the profession in Ohio states:

"It seems to me the rule is inadequate, unless provisions substantially similar to the amended rules of the New York Court of Appeals are included. In this city this matter of a clerkship is a farce. Any young fellow who is permitted to hang round a law office, with or without regularity, is commonly called a clerk for the purpose of permitting him to qualify, or he is often considered a student in a law office. This evidently serves no good purpose, and I do not believe the rule can be made too strict."

Your committee called attention to the New York rule as follows when presenting its report in 1909, stating (34 A. B. A. Rep. 771):

"In this connection it is well to note that the New York Court of Appeals' amended rules for admission, which went into effect last year, provide that the candidate must have prepared either in an approved

law school or by serving 'a regular clerkship in the office of a practising attorney,' and that as to the clerkship he must produce and file '*an affidavit of the attorney or attorneys with whom such clerkship was served, showing the actual service of such a clerkship, the continuance and end thereof, and that not more than two months' vacation was taken in any one year.*' His own and the attorney's affidavits must also show 'that during the entire period of such clerkship except during the stated vacation time, the applicant was *actually employed by said attorney as a regular law clerk and student in his law office, and, under his direction and advice, engaged in the practical work of the office during the usual business hours of the day.*'"

A member of the New York Bar considers that the time has now come to demand that every candidate before admission to the Bar shall have completed a law school course in addition to serving one year's clerkship in an office. He says:

"I should favor a proposition requiring a degree from a recognized law school in addition to a regular clerkship in the office of a practising attorney, and that the law school should be one in which at least three years' study are required, and the period of clerkship after the attainment of the degree should at least be one year."

On this point one of the members of your committee stated during the 1909 debate (34 A. B. A. Rep. 762):

"I would gladly vote for a rule requiring every man before admission to the Bar to attend a standard law school course, as Judge Danaher suggested to-day; but I doubt if America is yet ready for such a rule."

A member of the Connecticut Board of Bar Examiners states:

"Regular clerkships, within the meaning of the rule, are not common in this state, so far as I know. Where a candidate does not attend the law school, but prepares in the office of an attorney, we require a certificate from the attorney that the candidate has studied law in his office and under his instruction for the required period. We require, so far as we can, *bona fide* instruction, and expect a man to devote himself to the study of the law, and not merely to do so incidentally while pursuing some other occupation."

We will now quote for the information of the Section the views of the three members of the profession who consider proposition X too stringent.

The dean of one of the District of Columbia law schools writes:

"Disapproved. Either the examinations should be open to all the world regardless of where and how the preliminary training was ac-

quired, or, if it is to be restricted at all it should be restricted to those who have studied in an approved law school. Personally I am in favor of opening the examinations to every man of twenty-one of good moral character, and then having the examination so exhaustive and thorough and practical that only about one-fourth of those who are now admitted to the Bar, graduates of approved law schools or otherwise, would be able to qualify. My observation is that any tolerably clever young man of twenty-four or twenty-five can get enough law to pass the average Bar examination in one winter's home study and three months of a professional coach. It is here that the shoe pinches, and it is because the Bar examinations are so trifling that all this elaborated system of registration and preliminary examinations, etc., are being urged."

A justice of the Supreme Court of Louisiana states his position thus:

"No. Examination suffices to show qualifications."

And a member of the Minnesota Board of Bar Examiners declares:

"I cannot approve of this. Some of our best young men are so situated that they must support themselves and others while preparing to practise law. I do not believe we should shut the gate to all who have not fathers able and willing to support them for the three years."

While but three have expressed such views to us, they are undoubtedly held by many, and for the information of the Section, and all interested in the subject, we will quote at length from a memorandum of authorities, English and American, concerning the meaning of the term "regular clerkship," and which will be found in full in 28 A. B. A. Rep. 634-642, first, however, giving one of the introductory paragraphs concerning the practice which has grown up in some parts of America permitting candidates for the Bar, who have neither had a law school course nor served a regular clerkship in an office, to take the examinations for admission:

"This thing of admitting such men to examinations for the Bar is a modern American development, an excrescence upon our system, one of the most dangerous imaginable, and one which is destined to strike the roots of its malignant growth to the very vitals of the Bar if not speedily eradicated, for such men have not spent their period of development in the environment of law, and in consequence have lacking that which breathes into them the spirit and the soul of the profession. • • •

"It is easy to comprehend how this system has unwittingly grown up in certain portions of America permeated with the spirit of freedom, ever determined to accord equal rights to all and special privileges to none. No doubt the practice which obtained so long of admitting to the Bar on law school diplomas was at the root of the evil, for the argument then was on its face plausible that if a man who had the time and financial means to attend a law school and reap the advantages which accrued, was admitted to the Bar without any examination, certainly the poor boy who could not afford to attend a law school, but who, urged on by the fire of ambition to better himself, had spent years in conscientious study ought at least to be permitted to show by an examination whether or not he had acquired sufficient knowledge to practise. A fallacious argument! 'Information,' it has been truly said, 'is not education,' neither will mere theoretical knowledge of law make a lawyer, and it bodes ill for the future of the Bar in those jurisdictions which admit to examinations for admission those who have spent their period of preparation away from the environment and spirit of the law. This thing is a modern American departure from time honored precedent, and with profit we may at this point briefly trace the history of clerkships in law and see how jealously the requirement has been guarded by the courts from encroachment when the matter has been before them for determination.

HISTORY OF CLERKSHIPS IN LAW

"The statute of 20 Edward I (1292) empowered the justices to select from every county those best qualified to do service in the courts as attorneys. As early as the fourteenth century the profession was overcrowded, and in order to prevent its increase the statute of 15 Edward II, c. i. (1322) was enacted, reserving the power of admission to the chancellor and the chief justice. Notwithstanding this, incompetent men seemed to be successful in reaching the Bar, for by the preamble to the act of 4 Henry IV, c. 18 (1403), there was reference made to the great number of attorneys, 'ignorant of the law and not learned as they were wont to be,' and this act provided that those who were attorneys should be examined by the justices and that only those who were 'good and virtuous and of good fame' should be received and sworn well and truly to serve in their offices and have their names placed on a roll. On the other hand, those attorneys who were not good and virtuous and of good fame were to be excluded from the profession, and any found in default were forever after to be prevented from practising. But still the Bar increased, which was even at that time deemed a great evil, and an act, that of 33 Henry VI, c. 7 (1455), was eventually passed, which, after reciting that the number

of attorneys was too great, and that it was their practice 'to stir up suits for their own profit,' limited the membership of the Bar in certain counties.

"In 1606 the statute of 3 James I, c. 7, was enacted. It recited that owing to the abuses of sundry attorneys and solicitors in charging their clients with unnecessary fees and other unnecessary demands, the clients had grown to be overburdened and the practice of the just and honest serjeants and counsellors at law much hindered, and that such attorneys and solicitors for their own profit were in the habit of delaying suits to an extraordinary degree; the act provided, therefore, that none should be admitted as attorneys or solicitors except those brought up in the courts in which they wished to practice, or were otherwise well practiced in the soliciting of causes and who had been found by their dealings to be skilful and honest.

"Apart from the restraining acts of parliament it was the custom of the courts to admit only a certain number of attorneys annually, and this practice was continued at least until the enactment of 2 George II, c. 23 (1729), which expressly provided that nothing therein should be construed to authorize the admission of any greater number than ancient usage or custom allowed. This limitation of the Bar has its counterpart to-day in the Connecticut regulation, so delightful in its possibilities for our brethren there, authorizing admissions only on vote of the Bar; also in the Pennsylvania Act of Assembly of 1834, re-enacting the provision of the Act of 1722 only permitting the judges to admit 'a competent number of persons,' and under which the Supreme Court of Pennsylvania has said the judges 'must necessarily judge of the competent number.' (Brackenridge's Case, 1 S. & R., 187 [1814].) As early as 1654, the Supreme Court at Westminster had provided by rule that no one should be admitted as an attorney unless he had 'practised five years as a solicitor in court, or had served five years as a clerk to some judge, serjeant barrister, attorney, clerk or other officer of the court, and who on examination should be found of good ability, honesty, etc.'

"The statute of 2 George II, *supra*, directed that no one should be admitted as an attorney 'unless such person shall have been bound by a contract in writing to serve as a clerk for and during the space of five years to an attorney duly and legally sworn and admitted,' and that such person 'during the said term of five years shall have continued in such service,' and in order to prevent an attorney having more articulated clerks than could receive proper training, the act also provided that no attorney should have more than two, and this is the law at the present day in England. Indeed, by the articles of clerkship which are still required in England, the preceptor in consideration of the services to be rendered

to him, 'doth undertake and promise that he will by the best ways and means he may and can and to the utmost of his skill and knowledge teach and instruct or cause to be taught and instructed the said (the student) in the practice of the profession, which he the said (the preceptor) now does or shall at any time hereafter, during the said term, use or practise.'

"If the regulations in American jurisdictions now required the preceptor of a student clerk to be bound by some such undertaking and promise, as the rules of admission might properly provide, it would doubtless, in the majority of cases, result in the awakening of a sense of responsibility on the part of the preceptor, with corresponding advantage to the student and ultimately to the profession. Parliament, in order to remove any doubt as to the *bona fides* and intent of the regulations of 2 George II, twenty years later enacted a statute, that of 22 George II, c. 46 (1749) providing that such candidates for admission 'who shall become bound by contract in writing to serve any attorney, shall, during the whole time and term of service to be specified in such contract, continue and be actually employed by such attorney or his agent in the proper business, practice or employment of an attorney.'

"These regulations are the origin of the American statutes and rules of court requiring clerkship and study in the office of a practising attorney.

DECISIONS *in re* CLERKSHIPS IN LAW

"The courts, both in this country and in England, whenever the question has been before them, have given a strict construction to the provision that a candidate for admission to the Bar shall have served a *bona fide* regular clerkship of the length and character required.

"In 1798 in *Ex parte Hill*, 7 T. R., 456, a question of clerkship was before the Court of King's Bench on a rule to show cause why Hill should not be stricken off the roll of attorneys as not having served the five years' clerkship required prior to his admission. The rule was made absolute, Lord Chief Justice Kenyon saying:

"The question is whether he (Hill) has complied with the directions of the act requiring him to serve the person to whom he is bound and to continue in such service for five years? * * * It is not enough to say that during that time he occasionally did business for Hughes, or attended the Hundred Court, which is holden once in three weeks. However hard the case may press on this individual, we must not make the law bend to our wishes,

but must see that there has been such a service as the act requires.'

"Ashhurst, J., remarked:

'It is not fit that we should relax the rule of service required by the act, * * * If we break through that rule in one instance I do not know what other line can be drawn or where we are to stop.'

"And Lawrence, J., also concurring, said:

'The object of the act was to prevent the admission of unfit persons to be attorneys, for which purpose it required that they should serve the masters to whom they were articled for five years.'

"In 1808 the Supreme Court of New York, at a time when Kent was Chief Justice, held in a case reported 3 Johns 261, that a preceptor's certificate that the applicant 'had regularly pursued the study of the law under his direction and superintendence,' was insufficient and that the attorney ought to certify that the clerk had served his clerkship regularly in the office of such attorney. Again, a year later, the same court in A. B.'s application, 4 Johns 191, ruled, per Chief Justice Kent, that the certificate of the preceptor that A. B. had studied in his office (which was at a different place from that in which the attorney resided) under his direction and advice and as his clerk was not sufficient, and that 'the clerk must be in the office under the personal direction of the attorney himself, and the establishment of different offices in different towns and counties by the same attorney was an evasion of the law and an imposition on the court.'

"In 1814 the Supreme Court of Pennsylvania in Brackenbridge's case (1 S. & R. 187) refused on technical grounds to interfere with the decision of a Court of Common Pleas refusing to permit the examination of the applicant under a rule requiring the service of a regular clerkship within the state for the term of three years with a practising attorney or gentleman of known abilities, the proof in that case being a certificate by one of the Justices of the Supreme Court that the applicant had served a regular clerkship within the state for three years under the said justice. The opinion of the court traced the origin of the rule back through the court's rule of 1792 to the statute of 2 George II, *supra*, and held that while the Justice of the Supreme Court was undoubtedly a gentleman of known abilities, nevertheless his rank was too high for the service under him of such a clerkship as that contemplated by the framers of the rule.

"In 1825, a question arose in the Court of King's Bench, *In re Taylor*, 6 D. & R. 428, as to what would satisfy the requisites of the statutes of 2 and 22 George II, *supra*, as to clerkship. Said Chief Justice Abbott:

'We are asked to allow this gentleman to fill up intervals of days, nay, even of hours in various parts of every year of his clerkship during which he rendered no service to his master and was actually bound by the duties of an office under government to devote all his time and all his service to the public. This it is impossible to allow without violating both the letter and the spirit of the acts of Parliament.

"Three interesting cases from the Court of King's Bench in the matter of clerkship are reported in 10 Jurists (N. S.) 939: *In re Smith* (1843); *In re Mills* (1862) and *In re Duncan* (1864), all of which evidence the intent to construe the requirements strictly, though equitably for the best interests of the profession. In the latter case Chief Justice Cockburn, said:

'Unquestionably the supervision and personal superintendence of the master is essential to good service.'

"In 1894, the Supreme Court of New York for the First Department, in a case not officially reported, but cited in Smith's New York Court of Appeals Practice, 5th ed., at p. 155, refused an application for examination for admission to the Bar because the candidate's registration certificate showed that he had entered the office of a practising attorney merely 'as a student at law.' The court said:

'The certificate was rejected by us because it did not seem to comply with the rules of the Court of Appeals. Throughout the whole of the rules the serving of a clerkship is spoken of. * * * Having in view the reason why the requirement of a practical clerkship was made of even graduates of law schools, it did not seem to us that being a mere student in an office was in any way a satisfaction of the requirement of the rule. The requirement of rule five is certainly a very simple one, and it would seem that it could easily be complied with. We have, however, found that there exist some persons who make it a business to coach for examinations, and who give certificates of attendance as law students in their offices, the student not doing a particle of real clerical work, and they have given certificates of the kind under consideration.'

"In 1899, in a Pennsylvania case, *Wilson's Application*, 9 Pa. Dist. Rep. 102, a Common Pleas Court for the First Judicial District refused to permit four years of study of law as outlined in the obligatory course to be accepted in lieu of the service of the three years' office clerkship required by the rules.

"And in 1902, the Supreme Court of Pennsylvania, when establishing a State Board of Law Examiners, promulgated a rule whereby the three years' period of preparation after registration, when passed other than in a law school, is required to be spent

'by *bona fide* service of a regular clerkship in the office of a practising attorney' within the state, the words '*bona fide*' having been inserted for the purpose of removing any doubt or ambiguity as to the intent and meaning of the office service required.

"It is well settled by the decisions, English and American, that the term 'service of a regular clerkship' has a clearly defined meaning, and that it can only be complied with by a regular, continuous *bona fide* service during the entire period under the direction of the preceptor and in his law office. In no reported case has the question been more fully or more carefully considered than in the American one of Dunn's Application, 43 N. J. L. 359, argued in 1881 before the New Jersey Supreme Court, a case of such importance that it was reprinted in 1900 in 9 Pa. Dist. Rep. 107. In that case the court in the opinion filed per Dixon, J., declared:

'Whether an applicant has studied sufficiently is left by our rules to be determined upon the examination which he must undergo; and altogether aside from that question is the inquiry whether he has served the necessary clerkship. The substance of this prerequisite it is not difficult to perceive. A clerkship to an attorney imports the office of assistant to an attorney, an actual occupation in and about the attorney's business and under his control. The services are to be rendered, not solely or mainly by the study of law books, but chiefly by attending to the work of the attorney under his direction. The purpose of the rule is that the clerk shall be actually engaged in the practice of law under the guidance of his master for the stated period so that by direct contact with an attorney's duties he may acquire the skill and facility in the profession which are necessary for enabling him to protect and promote independently the interests that clients may afterwards commit to him. This is the sole object of requiring the clerkship to be served with a practising attorney. For the mere study of legal principles, a retired counsellor or a professor would be an apter guide.'

"The court then declared that the applicant and his preceptor both seemed to have misconceived the purport of the rule and said:

'They have regarded study as the equivalent to clerkship. We do not.'

It is well for us to remember in this connection that in England, at the present time, a man to be entitled to practise as an attorney, must before examination prove that he has served a regular clerkship for *five* years.

Furthermore, in Germany, as pointed out to us in 1908 by Judge von Lewinski, of Berlin, in his illuminating paper on

the "Education of a German Lawyer" (A. B. A. Reports, XXXIII, pp. 814-827), the candidate for admission to the Bar *after* he has completed his three years' training in the law school, must before examination for admission, spend four years and four months in practical work. He then, if he passes his examination, is admitted to the Bar. The four years and four months according to Judge von Lewinski (*id.*, pp. 822-825), is divided as follows: As assistant to the judge in one of the smaller county courts, nine months; in the Superior Court, studying civil and criminal proceedings, one year; following this, four months with a state's attorney acquiring knowledge of criminal prosecutions; then a six-months' course in the office of a counsellor at law; after that, one year in studying practice in a county court in a large city and receiving instruction in civil law and procedure from especially qualified judges, and finally nine months is devoted to a study of the work of the Appellate Court, in all four years and four months *after* the completion of the three-years' law-lecture course. Then, if he wishes to be a judge or state's attorney, he is compelled to undergo a still further course of training.

One member of your committee calls attention to the fact that in Germany the professors of law seem to recognize that they have a two-fold function, one, the theoretical training of a group of men, who are subsequently to be called to the Bar *after thorough drilling* in practice, the other, the education of a larger group who desire merely theoretical knowledge of the law without expectation of ultimate admission to the Bar.

XI.

No student candidate shall be eligible for admission to the Bar until he shall have devoted four years in preparing for call to the Bar, either by the service of a four years' clerkship in an approved law office, or three full years in an approved law school, followed by one year of clerkship in an approved law office; provided, however, that the fourth year may be passed in an approved law school in post-graduate work, including procedure and practice. In the draft for the rules a footnote should be ap-

pendent to this provision to the effect that in those states in which candidates are eligible for examination for admission after completing only a *two* years' law school course, the one year additional of practical work should be required. This would leave the entire period of preparation *in those states* at only three years.

NOTE.—Much material of value relating to this proposition will be found in the discussion under Proposition X, *supra*.

This proposition was approved, after debate, at the 1909 meeting of the Section, and for the debate see 34 A. B. A. Rep., pp. 759-764.

The object of the provision embodied in proposition XI is to insure at least one year being devoted to the subject of practice and to differentiate the man who merely wants a general education in the law from the man who desires actually to engage in the practice of the profession.

Dean Irvine of Cornell and a member of our committee approves the proposed four years for preparation,

"not so much upon the necessity of an extra year for training in practice as upon the inadequacy of three years for covering, in a proper manner, those branches of law which may fairly be deemed essential to every student."

He further says:

"I do not think that instruction in pleading or even in practice should be deferred until the fourth year. I believe the law schools should afford such instruction as a part of the regular course." He adds he fears that the proposition in its present form "would tend to the elimination of practice courses from the law school's *curricula*, and that the student would be relegated to an unscientific and haphazard picking up of practice information in his fourth year."

In answer to our 1910 request for criticisms we received replies from thirty different states. Over 72% of those replying unqualifiedly approve the proposition in its present form. The remainder criticize particular provisions.

One of the tersest replies is from California, the writer saying:

"In favor of the proposition because of practical difficulties involved by any material change therein."

We think the discussion which follows will emphasize the wisdom of this remark.

The distinguished Dean Rogers of Yale noted his dissent from the proposition because it treated as equivalents time spent in a law office and time spent in a law school; and Chief Justice (now Governor) Baldwin of Connecticut opposed it on the ground that the country was not yet ready for it.

That this important question may be fully before you, we present excerpts from the 1909 debate, as follows (34 A. B. A. Rep. 759-764) :

" Henry Wade Rogers, of Connecticut:

" I desire to dissent from this proposition, and I do so because it treats as equivalents time spent in a law office and time spent in a law school. A resolution was passed by the American Bar Association last year requiring students to study law for three years in a law school or four years in an office. I, therefore, move that Proposition XI be recommitted to the committee for further consideration, in view of the action taken by the American Bar Association last year.

" Franklin M. Danaher, of New York:

" I second that motion.

" Lucien Hugh Alexander, of Pennsylvania:

" I call attention to the fact that the action of the Bar Association last year was the adoption of a recommendation that candidates should study law for three years if graduates of law schools and four years if not graduates of law schools.

" The object of the committee in presenting Proposition XI in this form was not at all in opposition to that action, but simply to suggest that in the judgment of the committee there should be considered by this section the question whether or not there ought to be an additional year of practice, making four years for all men. That does not alter or modify the requirement or resolution referred to that a man shall have studied three years, if a graduate of a law school, and four years, if not.

" Henry Wade Rogers, of Connecticut:

" But it treats the two periods as exactly equivalent to each other, and that is my objection to it.

" Lucien Hugh Alexander, of Pennsylvania:

" I think I voice the sentiment of the committee when I state that in presenting these points for incorporation in the rules, the

committee had in mind not necessarily the conditions as they exist today, but the conditions of the future. Judge Danaher, for many years Secretary of the New York State Board of Law Examiners, in addressing us has emphasized the importance of one year's practical training in an office, but he advised cutting off one year of law school study in those jurisdictions where three years is now required. If Judge Danaher's proposition is carried out, a student during his last year must be entirely out of the law school and in an office. The committee does not think it a practicable thing for a man to carry on the work of a standard law school, and at the same time be serving a *bona fide* clerkship in an office. On the other hand, we do not think that the Section ought to do anything that will adversely affect the three-years' *curricula* of law schools of standing today. We believe that a man should have one year of practical work; but we also believe that a man should not have his law school course disorganized in order to secure it, as would be the case if he were to spend but two years in the law school. Between the two horns of the dilemma, between this Scylla and Charybdis there is but one course, namely, that the candidate must get his one year of practical training after he has completed his law school course. We see, therefore, no way to meet the situation but to require that men who are coming to the Bar shall take four years in those jurisdictions where a man is now permitted to come up for examination after three years in a law school; and in those jurisdictions where only two years in a law school is now required, we say add to that the one more year of practical training.

"Henry Wade Rogers, of Connecticut:

"I am not objecting to the requirement of one year's additional time spent in a law office.

"Simeon E. Baldwin, of Connecticut:

"Is there any utility in our affirming a proposition which we know the country is not prepared for? The American Bar Association, by years of patient effort, has greatly advanced the standard of legal education, and has advanced materially the limit of time which must be given to law school study in order to acquire a degree. We now propose to ask another year of study, and we turn to the German practice as an authority, or to that of England in regard to her attorneys, who are not ordinarily men of what we call a liberal education.

"It seems to me that if the students in a three-year law school course were to utilize their vacations in clerkships and in office work, the end in view would be achieved, and I believe this to be common sense advice for a student who desires to acquire a knowledge of practice. Tell him to enter his name in the office of an attorney in the city where he proposes to practice, and to learn practice during

his vacation. We have been told today that the term of study required in a year of law school work runs from thirty-two to thirty-five weeks. That leaves a good many weeks in a year, and two months each year for three years could be well spent by every student as a registered clerk in an office, and if so spent I think that all would be accomplished that could reasonably be asked in the present condition of American society. We are not built as the Germans are, on the theory of life-long preparation. Our institutions are founded on the theory of youth, people are availing themselves of the work of the young, and we want to get men started in the world at an age when they are still young. I sympathize, therefore, with the opposition to the proposition as it now stands.

"Lucien Hugh Alexander, of Pennsylvania:

"Speaking personally, and not for the committee, I would call attention to the fact that the committee, when considering this matter, was not presenting what it believed to be an ideal standard, but rather one which we believe to be practical enough to be adopted in jurisdictions where rules of admission are to be changed. In my own state of Pennsylvania, until within a few years, a student could prepare for call to the state Bar in but one law school, that of the University of Pennsylvania. Later Dickinson Law School was added, but no credit was given to a man who took any of the other great law school courses; after graduation from Harvard or Yale or any other law school, he was compelled to return to Philadelphia and serve either a three-years' clerkship in an office, or else enter the University of Pennsylvania and take his last year there, and then be admitted on his diploma according to the practice then obtaining. It was with the greatest difficulty that we finally succeeded after years of effort in getting our courts to recognize attendance in the great law schools of the country outside of our own state as equal to an equivalent period of time spent in an office.

"Speaking again for myself, and not for the committee, I believe that it will be practically impossible in many jurisdictions to secure the adoption of a rule which will require more time in a law office than in a law school. In presenting a draft for standard rules for admission to the Bar, the thought of the committee was that only rules should be approved which would stand some prospect of adoption in the various jurisdictions.

"Again speaking personally, I would gladly vote for a rule requiring every man before admission to the Bar to attend a standard law school course, as Judge Danaher suggested today; but I doubt if America is yet ready for such a rule. I, however, would oppose the adoption of any standard rule which makes the distinction which has been stated, for it would give a false impression; we ought not to indicate that four years in an office is equal to three in a good law school. We

know it is not, and by attempting to make it appear that it is we would make it more difficult to secure ultimately the general adoption of a rule requiring every candidate for the Bar to take a standard law school course. A man in order to practise medicine must attend a medical school, and there is no good reason why the bars should be permitted indefinitely to remain down in our profession. We think our suggestion in the form presented complies with the action of the American Bar Association last year.

"Levi Turner, of Maine:

"I am in entire sympathy and accord with what Judge Baldwin has stated. My own experience justifies the wisdom and practicability of the course he suggested. I have sometimes been asked what the ideal course for a law student would be. I myself never had the advantage of a law school training. My reply has always been that a student ought first to have two or three months in a law office, reading some elementary book, in order to familiarize himself with the terminology and nomenclature of the law, so that when he takes his first lecture in the law school he will be able to comprehend it. Then let him spend his vacations in the office of a general practitioner. My observation has been that students who do that are well qualified to take hold of the real activities of the profession when they are admitted to practice. I know whereof I speak, because in the office I left when I went upon the Bench, we had three graduates from Harvard Law School. Two of them had pursued the course I suggest; that is, immediately upon finishing their first year in the law school, they entered the office and took part in the business activities there. Of course, to put a student in a corner of a law office simply as a piece of furniture, not allowing him to participate in the business, is useless, and time thus spent is valueless to him; but if he is given a share in the work and responsibility of what goes on, my experience is that the knowledge gained during his vacation will fit him to take up the work of his profession with intelligence, skill and reliability.

"Upon a vote, the rule as printed was approved."

We present herewith criticisms upon the proposition received in answer to our 1910 request for same.

A well-known member of the New York Bar writes:

"Experience through many years at the Bar and in judicial life and some experience as a lecturer in law college, I am satisfied that some discretion should be lodged with the commissioners regarding this period of study prescribed by Proposition XI. To illustrate, in my academic days my class came up to one individual who had then twice failed in his examinations, never having gone beyond the change of signs in algebra, and was at the examination

of our class again turned back, failing the third time. It is perfectly apparent that such a student would require four times the period of study to accomplish what the average student would accomplish, and the rule would require a student of mature mind to be harnessed with four years of student life in office or law college as an absolute requisite. It is calculated to discourage the very character of intelligence that we desire to encourage in the success of our profession. Looking upon the rules for admission and seeing that four years of mature manhood must be practically lost in the study before he can reach a standing in the profession tends to drive him to other industries or professions less incumbered, and the profession loses perhaps a brilliant future in the profession. One of the very profound lawyers in the State of New York, in conversation with me relative to the present examinations for admission to the Bar, at the time having reached the highest place in judicial life, and quite familiar with the character of examinations, in speaking of it said: 'If such examinations had been required when I was admitted to the Bar, I would undoubtedly have spent my life following a plow over the lands of Central New York.' While Proposition No. XI is very proper as a general rule, it should be subject to opening upon proper showing. Therefore it seems to me a discretion should be lodged with the commission upon special application with specified evidence of capacity with, if you please, an additional fee for passing upon such application. But with the possibility that the applicant, abundantly satisfying the commission of his competence and fitness for admission, should not be required to pass four years arbitrarily in an office or in a law college."

A member of the profession in the State of Washington expresses his views as follows:

"I am not in favor of admitting candidates to the Bar unless they intend to practise. I believe that any student who desires a law education for theoretical training only should be confined to his law degree, and should not be enrolled as a member of the Bar. Nor do I believe that any law school work has yet been able to take the place of practical experience acquired by service in a law office. I therefore favor three full years' work in an approved law school, followed by one year of clerkship in an approved law office, as the most efficient method of acquiring a practical and working legal education; but I would make the rule less hard and fast by permitting either three years in a law office or two years at school and one year in an office. Such a rule, I am persuaded, would best meet the varying conditions of the entire country."

The dean of a Trans-Mississippi law school says:

"Objectionable because of the following: After the word 'school' in the fifth line, 'followed by one year of clerkship in an approved law office.' I think this an unnecessary hardship, and the clause requiring a three years' course in a law school to be followed by one year of clerkship in an approved law office should be stricken out. In many states, especially the newer states, there will be practical difficulty in many law school students securing clerkships in approved law offices. Further, it occurs to me that the law school course of study should be so arranged and such place given in the course to moot court and practice work that the student will be fairly well equipped to enter at once upon the practice without serving a year as clerk. I am satisfied that the practice work of some law schools conducted through the senior year is more advantageous to the student than the practice he will get in an office."

The dean of one of the smaller Eastern law schools, writes:

"I approve the four years in office work and study, but I would leave the law school at three years. I think Dean Rogers' criticism valid. I would make two groups of subjects for examination as now is done in New York, viz.:—Group 1, Substantive Law. Group 2, Evidence and Civil Procedure, and require the student to pass in both groups. This will take care of both branches of the law. Under this scheme the schools can be trusted to take care of *practice*, and no student can neglect it and hope to get into the profession. In any event, I would strike out the words 'including procedure and practice.' The law school man must have that subject before he leaves the school."

A member of the Bar in the State of Minnesota expresses himself thus:

"My criticism upon eleven would be that you would add very little to the up-to-date law school where they have special provision for procedure and practice during one of the three years. You would not accomplish the purpose of requiring every student in an office to have at least two years in a law school, which ought to be required, and I can see how there might be cases where a student in a law school might not be required to take office work, which I think ought to be required. In other words, in putting out a four-year course, a student ought to be required to have both practical and theoretical work. If he is not admitted on his law diploma he ought not to be admitted without work in a law school. The most of the states, or at least a large number of the states, now require dentists and doctors to take work in regularly accredited

schools before they can be admitted to practice. There is no reason why the same standard should not be required of lawyers, but the practical work ought to be so as to give them an understanding of the needs of lawyers before they have their certificates of admission."

The following is from a well-known member of the profession in New York:

"I do not regard four years' clerkship as the equivalent of three years in a law school and one year in an office. I desire to emphasize Dean Irvine's remarks concerning instruction in practice, and even to go beyond them. The whole body of the substantive law has been built up on the law of pleading and practice. I do not believe in any law school course that does not found itself on the law of procedure. In my judgment, fully one-third of the required course should be devoted to that subject. A workman who does not know the tools in his tool-box and the uses of each, never makes a good workman. And I think it is unquestionably true that any lawyer who thoroughly understands both law and equity procedure is a pretty thoroughly equipped lawyer. I have never seen any reason to differ from Judge Story's views as summed up in the last section of his book on Equity Pleading, and from my six years' experience as a lecturer on procedure I strongly support Judge Story's view."

The chief justice of one of the Western states writes:

"Rule eleven requires one year's clerkship in a law office after the completion of a three years' course in a law school. This seems to me at present not a desirable provision. The work in a law office is a desirable preparation, but it is often of little real value. Pleading and practice should be taught in the regular three years' law school course, and if properly taught the student will get a better preparation for actual practice from such instruction than from casual experiences in the ordinary law office."

The dean of a law school in the District of Columbia says:

"Disapproved. Certainly not more than three years altogether should be required as a period of preliminary study to take the Bar examination. If the law schools do not teach the general principles of practice, that is the fault of the law schools. The student should not be penalized by another year's postponement of his getting out into the real world, besides which, anyone who has had a personal experience knows that more practice work can be taught in a law school in one winter than can be picked up by the ordinary law student in a law office in two or three years."

Contra to this, we have the following views from the chief justice of a far Western state, who says:

"I approve fully of the requirements of this proposition. It will be difficult in some of our western states, however, to secure the legislation necessary to make the rule effective, even to the extent of adding the extra year of practical work to the two years' law course now required, as suggested in the note. In this state a course of two years of twelve months is now required. Our legislature would yield very reluctantly to any suggestion to extend the time for preparation. The popular idea that the struggling young candidate shall not be kept out of actual practice longer than is absolutely necessary is very wrong."

Professor William Draper Lewis, the dean of the most important law school in the State of Pennsylvania, expresses himself thus:

"In the main I agree with Dean Irvine. Personally I believe that no general announcement should be made until the Bar is ready to say definitely the course of education which students must take. In a short time I think the profession will insist on a three years' law course and a one or two years' apprenticeship corresponding to the hospital training of the medical practitioner."

In New York State a committee of the New York County Lawyers' Association, of which committee Mr. John R. Dos Passos was Chairman, during the last two years has strenuously advocated the amendment of the New York rules so as to require five years of study "of which at least two years shall actually be spent serving a regular clerkship in the office of a practising attorney," "the clerkship to follow the course in a law school or its equivalent in prescribed study."

From a memorandum on this subject presented to the New York Court of Appeals on behalf of the New York County Lawyers' Association, we excerpt the following:

"The effect of this rule is to lengthen the term of apprenticeship from three to five years, and to compel the student to pass the last two years of his course in the office of a practising attorney.

"If this amendment were granted, no student could be admitted until he was 23 years of age. The almost unanimous opinion of the Bar is that this is none too late; that the student is better able to commence his real work at 23 than at 21. * * *

"We beg again to quote from the report of the last named Committee:

'Under the rules as they formerly existed a candidate for admission to the Bar was obliged to serve a clerkship of some considerable length in a reputable office, and to produce proof of honest and continuous compliance with this provision. Under this practice a candidate was obliged, during the prescribed time, to continuously devote himself to the law, to the exclusion of any trade or occupation, and he thereby was able to acquire some degree of familiarity with the history, traditions and atmosphere of the profession he proposed to adopt—of all of which, under the existing procedure, they are too apt to be lamentably ignorant. Many of those who have appeared before us have frankly stated that they have no intention to practise law, and apparently sought admission to the Bar largely because of the ease with which admission could be obtained.'

"Of one thing we feel reasonably sure—that it is the general opinion of the legal profession everywhere in the United States that the period of legal study should be more than three years, and that law students should not be called to the Bar until they have had actual experience in an office where active legal work is performed. Under the present system the apprentices enter the profession with absolutely no knowledge of practice. It is true that they have hastily gone through the Code of Procedure but their hands and minds have never grappled with actual work. Moreover, they know little or nothing of the manners and methods of professional business—of the goings and comings of office life, and many of them for years after they are admitted are actually helpless to themselves and to lawyers who hire them as clerks. They practically begin to study the real work after they have been admitted—following a sort of post-graduate course at the expense of the lawyers who employ them or of their clients, if they succeed in securing any, and very frequently to the inconvenience of the courts, where time is spent by the trial or special term judges in giving lessons to the ignorant practitioner at public cost.

"We find a class of young men seeking admission to the Bar, who, whatever can be said of their ability to pass technical examinations, impress us as lacking the kind of moral and intellectual fiber essential for the creation of a strong and reputable Bar. The effect is already apparent. From the judges of all the courts come complaints of the number of lawyers appearing before them who are without a sufficient degree of intelligence and skill in the practice of law, to properly protect the interests of their clients.' (Committee on Character, *supra*.)

"It can be safely affirmed that the profession of the law is equal in dignity and importance to that of the soldier or sailor. Yet the Cadets at West Point and Annapolis are subjected to a four years' course of study whose rigidity and thoroughness have enabled the

United States justly to claim full equality with, and in most instances a superiority over, all other nations in respect to its military and naval officers, and the excellent results upon the graduates from these academies are universally conceded.

"In the matter of Pratt, 13 Howard Practice, p. 1, in an able report of the Examining Board to the Supreme Court of New York, the same recommendation was made:

'All experience has proved that nothing short of a term of thorough study and training, and that in the office of a practising attorney, will ever make a lawyer. As well might the surgeon become qualified to practice his profession away from the subject, the mechanic to acquire his art by the abstract study of his trade, or the chemist away from his laboratory, as the legal student to become qualified to practise by merely reading without practical education.'

"The same view was expressed in England in 1899 by the Examination Committee appointed under authority of Parliament by the Incorporated Law Society, as follows:

" 'The committee adhere to the opinion so long held by the Council, that university education, where practicable, is desirable. * * * But, for reasons presently given, they consider that in nearly all cases the university teaching must precede the service under articles (i. e., the service of a five-years' regular office clerkship). * * * These duties occupy him (the clerk) from hour to hour and from day to day, during the whole of his day. The master has to certify at the end of the service that the clerk has, from the date of his clerkship, been diligently employed in the master's professional business, and has not been engaged in any other employment. The clerk ought, therefore, to be occupied in the actual daily work, with its endless variety and examples in the application of principles of law, and in all these things under continual criticism and advice from the master or responsible and skilled managers, and it is in this way during the five years' service that a knowledge of the principles as well as of the practice of the law and its application to actual business becomes little by little fixed in the mind of the clerk, in a manner of which no academic teaching could hope to attain. Simultaneously an industrious articulated clerk ought to read privately, or with the aid of a tutor, out of office hours, or at convenient times when he can spare the time, the text books of practice with increasing grasp as time goes on, and as his knowledge becomes enlarged by the actual practical work of each day. It is with experience that reading, combined with actual practical work, becomes easier and the results more lasting. In this way an articulated clerk by degrees acquires a knowledge of the principles and the practice of the law by reason of the work which he is obliged to perform day by day, and which the utmost industry and attention

could not acquire from theoretical or academic teaching. * * * The university diploma ought to stand, and in the present University of London does stand, for a high standard of theoretical knowledge in a varied range of subjects and as the result of long study. * * * They (The Committee) are of the opinion that the existing examinations of the Incorporated Law Society being conducted by practising solicitors, and aimed at testing the knowledge of the student in the principles and practice of the law mainly from a practical standpoint, form a much better test than would be provided by any university examinations. If, on the other hand, a university degree, at whatever date obtained, entitled its holder to practise the law, the result would be that the profession would no longer be restricted to persons duly qualified with practical experience and knowledge.”

“We beg in this connection also to call the attention of this honorable court to the language of the Committee on Character, appointed by the Appellate Division of the Supreme Court of New York, First Department, for the year 1909:

“The committee have been more than ever impressed during the past year with the apparent lack of general education and fitness of many of the candidates. A very considerable proportion of the candidates are unable by reason of their youth, inexperience and meagre education, to satisfy the committee that they are competent to assume the responsibility of practising as attorneys or capable of understanding or upholding the ethics of the profession. This is especially true of foreigners whose obviously limited knowledge of English would seem to be an almost insuperable barrier to an intelligent comprehension of the law and of the principles which should govern its practice. Inasmuch as a considerable proportion of this class are obliged by the rules of the Court of Appeals to secure a law student's certificate from the regents of the university before taking the law examination, the committee are of opinion that the regents should raise their requirements and insist upon such general attainments as will lay a proper foundation for legal education, especially as regards the mastery of the English language. At the present time it appears to be possible under rules established by the regents, for a student proficient in foreign languages and other subjects to obtain a law student's certificate from the regents without having passed any requirement in English. Your committee are of the opinion that the requirement in English for a law student's certificate should be at least as high as that demanded for an academic diploma (thirteen counts) and suggest that a recommendation to this effect be made to the regents of the university.

‘Under the rules of the court now in effect, the Committee on Character would not feel themselves authorized to reject a candidate for lack of general education or inability to speak and understand English, provided he presented the required evidence as to his moral

character, and it seems to your committee highly desirable that a rule should be adopted directing the committee to enquire into the general fitness of candidates."

Dean Kirchwey of the Columbia Law School, a member of the committee, was not able fully to endorse the suggested change, but was of opinion "*that a period of four years of law study, at least one of which should be served in the office of an active practitioner of law, should be required of all candidates alike.*" Professor Kirchwey expresses himself on this subject as follows:

"As to the second amendment proposed, I am of the opinion that it is not practicable at the present time to require five years of professional training as a prerequisite for admission to the Bar and that a period of four years of law study, at least one of which should be served in the office of an active practitioner of law, should be required of all candidates alike, whether college graduates or not, instead of the two and three-year requirement now in force. I have no sympathy with the view that the requirements for admission to the Bar should be so fixed as to enable a young man to appear as an adviser of the courts at the age of twenty-one and I don't believe that the legal profession, least of all that the courts, are in sympathy with that view. It proceeds on the singular assumption that the 'right' to practise law exists as an attribute of American citizenship, independently of considerations of fitness for the tremendous responsibilities which attach to that vocation. The logical result of that attitude would be to abolish all tests of fitness and to make a man eligible to practise at the Bar as he becomes eligible to vote upon offering proper evidence of his having reached his majority. I doubt indeed if it is desirable to have any age fixed for beginning the study of law. The requirement should be one of general educational and professional equipment and this should be made so high as to prevent any but men of adequate training and maturity of mind from entering upon the independent practice of the profession. What the profession needs is not an influx of *boys* who have been crammed so as to pass the Bar examinations, but *men* who are qualified in point of judgment and maturity of mind as well as of learning to carry the responsibilities of the most exacting of the professions.

"The argument for the requirement of a period of clerkship in the office of a practising lawyer seems to me conclusive. Neither the requisite technical knowledge nor the proper professional spirit can, in my opinion, be acquired in any other way, but I am convinced that at the present time not more than a year of service in an office can wisely be exacted. If more were demanded it would inevitably be at the expense of the systematic training in legal principles and the knowledge

of law which, under existing conditions, can be obtained only in a good law school. I am sure that I am safe in saying that the training of the law schools has come to be indispensable and that it is only through a combination of this training and that of the law office that a man can derive a proper equipment for the work of the profession. It seems to me also that it would be unfortunate so to emphasize the clerkship requirement as to induce students to reduce the period of law school study below three years. That period has come to be recognized as the standard of legal education in this country and is being adopted as rapidly as possible by every school that is animated by a proper sense of its obligations to the profession and to the community which the profession serves. This is especially true of the state universities of the west and middle west as well as of the better schools in the east and south. Under these circumstances it would seem to be the part of wisdom so to frame the rules as to furnish no temptation to law students to interrupt their professional study before it has been properly rounded out in the law school.

"I venture to suggest, however, that a five-year requirement would be eminently proper in the case of candidates who make their way to the Bar otherwise than through the medium of the law school. I think that anyone who is familiar with the conditions under which the student in a law office pursues his reading, will not be inclined to dispute the statement that a single year in a good law school does more for the education of a man in the rules and principles of law than two or even three years spent in an office. To require five years, therefore, of everyone who has not spent, let us say, at least two years in the study of law in an approved law school, would seem to be only a reasonable and proper discrimination between the two classes of students."

On this same subject, a committee of the Bar Association of the City of New York, of which committee Mr. Francis Lynde Stetson was Chairman, prepared a memorandum for the New York Court of Appeals and recommended an amendment of the rules of admission as follows:

"The provisions for requisite periods of study must be fulfilled by serving a regular clerkship in the office of a practising attorney of the Supreme Court of this state after the age of eighteen years; or after such age by satisfactory attendance upon, and successfully completing, the prescribed course of instruction at an incorporated law school or a law school connected with an incorporated college or university having a law department, organized with competent instructors and professors, in which instruction as hereinafter provided is regularly given; *the entire period of study of students to be not less than four years, of which at least one year must be spent in the office*

of a practising attorney after successful completion of the law school course, the aggregate combined periods of such clerkship and such law school attendance being not less than four years."

We close the presentation of the discussion on proposition XI with the words of Mr. Edward S. Cox-Sinclair, of London, in his paper in 1910 before the Section, on "*Requirements for Admission to the Bar in Great Britain and Her Possessions and On the Continent of Europe—A General Survey*" (35 A. B. A. Rep. 809-828). He says:

"It will be seen that although the period and type of practical training varies in the different countries under review, yet in each of these systems a term of practical work, even if not obligatory, is coming to be regarded as an essential preliminary. Practical training reaches its highest point in such countries as Germany and Belgium, where in effect there is, as with you, a fusion of the two branches of the profession. In England (and in other countries such as France and Italy) where there is a separation between the branches, practical training in the office of an experienced advocate is so common as to almost afford a rule. *The tendency everywhere is in the direction of imposing a period of actual practical work, and where such an obligation already exists of making that period longer and its methods more stringent.* It is in fact becoming everywhere recognized that the great interests entrusted to lawyers should not be risked in the hands of amateurs or left to the chance of casual capacity."

XII.

Candidates for admission shall present themselves prepared for examination in the following subjects: Constitutional law, including the constitutions of the United States and . . . (the candidate's state), equity, the law of real and personal property, evidence, decedents' estates, landlord and tenant, mortgages, contracts, partnership, corporations, crimes, torts, agency, sales, negotiable instruments, domestic relations, common law pleading and practice, federal and state practice, conflict of law, professional ethics, the federal statutes relating to the judiciary and to bankruptcy, and the development in . . . (the candidate's state) of the principles of the law, as exemplified by the decisions of the highest Appellate Court and by statutory enactments.

This proposition after amendment was approved in this form at the 1909 meeting of the Section. For the debate, see 34 A. B. A. Rep. 764-765.

The replies to our 1910 request for criticisms indicate that the proposition in its present form has received almost unanimous approval, except that a few suggestions as to amendments have been made. Most of these we will quote for your information, but before doing so call your attention to the following remarks by a member of the New York Bar:

"This proposition as approved by the section is doubtless suitable and sufficient. It becomes ludicrous to suppose that a young man can justly qualify under it at a less expenditure of time than three years in a law school, and one year in a law office."

The dean of one of the law schools in the District of Columbia writes:

"Approved, with the suggestion that the examination include practical exercises in pleading, drawing of important papers and such other work as might be done by an attorney without the assistance of a library."

The distinguished chief justice of the Supreme Court of Iowa objects to the requirement of common law pleading. He says:

"Rule twelve requires common law pleading as one of the subjects for examination. This it seems to me is futile. In the Code states a much better course of study in pleading and practice than that afforded by the study of the common law system may be given. Such a course would necessarily involve the principles of common law pleading and practice, but not its study as a distinct system."

So also a member of the Minnesota Board of Bar Examiners, who declares:

"I would not require 'common law pleading,' in the Code states, nor 'federal practice' nor 'bankruptcy.' The newly admitted attorney does not get into this class of work and we ought not to require of him that which he will not be able to use until he is established in business and has shown ability to undertake larger jobs."

The chief justice of Wyoming writes:

"I would favor striking from this proposition the words 'the federal statutes relating to the judiciary and to bankruptcy.' It seems to me also that the remainder of the proposition following the words above quoted would require in larger states a more extended study of

the appellate decisions than should be ordinarily required of a candidate for examination."

An exception to one provision is taken by a member of the Illinois Board of Bar Examiners, who expresses himself as follows:

"Approve as amended; except that the last clause should, I think, read 'and the developments in..... (the candidate's state) of the *fundamental* principles of the law as exemplified by the decisions of its highest Appellate Court and by *important* statutory enactments.' My judgment is that a well-equipped candidate should have some knowledge of important or far-reaching statutory enactments in the state in which he applies to be admitted; but I always refrain from asking questions which require or contemplate ability on the part of a candidate to answer as to matters founded on statutory law of a relatively obscure or unimportant character."

A former president of the Connecticut Bar Association and a member of the State Board of Bar Examiners says:

"I approve of all but the last clause. I think it is asking too much to expect a candidate to familiarize himself with the law of his state as evidenced by the decisions of its highest courts. We require some knowledge of the statutes, and have specified certain portions which shall be read. They relate particularly to the Statutes of Frauds and of Limitations; matters of conveyancing, wills, domestic relations, etc."

This provision was adopted from the system in vogue in the State of Pennsylvania, and in that state in order to prevent the student candidates from being overwhelmed by the requirement, the State Board furnishes a list of the leading Pennsylvania cases with which the candidate for admission will be expected to familiarize himself. Thus qualified, the requirement is said to have many advantages.

A member of the faculty of the Syracuse College of Law writes:

"I think I would omit this entire rule. As it stands the presumption is that the student would not be prepared in any subject not named; without the rule the student must be prepared to pass examination upon the *whole body* of law. If the subjects must be named I would insert Trusts, Wills, Bailments, Suretyship, and I would strike out 'Constitutional Law,' 'Federal Practice' and 'the Federal Statutes Relating to the Judiciary.' Good schools teach Constitutional

Law, but not exhaustively. To give more time to it is not good economy in my opinion. Few lawyers have to deal with the Constitution. If common law procedure is taught, there is no need of *Federal procedure* as a separate course. What I have said applies to a law office student as well as to a law school student."

The following comments are made by a member of the New York Bar:

"With regard to point XII, allow me to point out two most serious omissions. (a) The subject of equity pleading and practice is not mentioned. Certainly no candidate can have any competent knowledge of equity without some definite knowledge of equity procedure. I regard it of the highest importance to specify that particular subject, which is the necessary foundation of any true knowledge of equity. (b) A further omission from this section, which I regard as very serious from two points of view, is the subject of the obligations of trustees of all kinds. Probably the knowledge of no branch of the law tends to better professional standards than the knowledge of the duties and obligations of trustees. So far as my experience has gone, a great deal of the dishonorable conduct of low grade lawyers has proceeded from sheer ignorance of the obligations of trustees; and the study of that branch of law is of the greatest importance, not only to the intellectual equipment of the candidate, but also to his moral equipment for the position of barrister or even solicitor. I would therefore urge strongly the addition to Section 12 of the two subjects, Equity Procedure and Obligations and Disabilities of Trustees."

We append a brief quotation, though not embodied in a communication to your committee, from the revered Judge Dillon:

"I insist, for I believe it to be true, that the stereotyped course of legal instruction in this country is defective, not so much for what it contains *as for what it omits*. It is defective in that no adequate provision is made for specific instruction in historical and comparative jurisprudence, and in the literature, science and philosophy of the law—in what may, perhaps, be compendiously expressed as general jurisprudence."

Concerning the general advance throughout the world of educational requirements in the matter of admission to the Bar, we quote from the paper of Mr. Edward S. Cox-Sinclair, of London, before the Section in 1910 on "*Requirements for Admission to the Bar in Great Britain and Her Possessions and On the Continent of Europe—A General Survey*" (35 A. B. A. Rep. 809-828):

*"A wide range of proficiency in legal studies.—*Everywhere the range is being extended, the extent of grasp of legal principles intensified, and the tests of acquisition made more severe. * * *

"In fine, it would appear that throughout the civilized world, advocates are regarded with increasing insistence as men who should be fully equipped for a great public service, of approved integrity, of a good general education, of thorough legal attainments, and of substantial practical experience. Whatever may be the normal age standard (and it is generally 21) it will in the future, in practice, come to be fixed at a point some years later."

It is appropriate to close the discussion of proposition XII with the words of the beloved and lamented David J. Brewer spoken before our American Bar Association sixteen years ago, and within the first decade of his elevation to the Supreme Court of the United States (18 A. B. A. Rep. 441) :

*"And so I come to the thought which I wish to impress upon you; and that is, if our profession is to maintain its pre-eminence, if it is going to continue the great profession, that which leads to and directs the movements of society, a larger course of preparatory study must be required. A better education is the great need and the most important reform * * * But why is a higher education today the especial need of the profession? Because first, the law is a more intricate and difficult science than heretofore. The very complexities of our civilization and the multiform direction of human enterprise have not only increased the number but have also given greater variety to the rules controlling business transactions. He who would become qualified to counsel and guide must therefore have larger legal lore, and that is only obtained by a more extended study and training."*

XIII.

Names of all candidates for admission should be published by the board for three days in succession, at least ten days before the examination, in a newspaper of general circulation throughout the state, and for four weeks in a law periodical, should there be one within the state jurisdiction. A similar publication should be made of the names of the candidates passed at the examination and at least ten days before the State Board's certificates are issued to the candidates.

This proposition was approved at the 1909 meeting of the Section (34 A. B. A. Rep. 765).

The responses to our 1910 request for criticisms almost unanimously and unqualifiedly endorse the proposition. However, it is vigorously objected to by a member of the Illinois Board of Bar Examiners, who writes:

"Of this section I do not approve. The facilities of a State Board of Examiners for ascertaining the moral fitness of candidates must vary very widely in the different states: and in the larger states, if not in all states, I feel confident that publication 'in a newspaper of general circulation,' etc., and in 'a law periodical' would be substantially useless. Of course, it may be said that the adoption of such a section need not and should not preclude other and further effort on the part of the board; but compliance with such a proposition as to publication is in my judgment more likely to relax the vigilance of the board than it is to yield any results—or open up sources of information. It has been my practice here, as to candidates from Chicago, to cause the attorney for the Grievance Committee of the Chicago Bar Association carefully to go over all the applications for certificates of good moral character—and to consider also the professional reputation of the sponsors appearing in court for such candidates. Then if there is any question, I take the matter up personally with such attorney, and together we investigate into the standing both of candidates and of their sponsors. I feel that the best way of getting at the moral fitness of candidates is (a) to require a certificate of good moral character from some court of record, upon a showing similar to that contemplated in 3; and (b) for state boards to take such means as may be available in the several states for checking up the work of the courts in issuing certificates of moral character."

It is also objected to by a member of the New York Bar, who says:

"Proposition No. XIII should in my judgment be entirely omitted. If there is anyone enough interested in the prevention of the admission of any student of the profession whose moral character or integrity would not stand the test they would lodge with the commission objections quite as certainly without this publication clause as they would with it. It seems to me a sort of contribution to the newspapers and law periodicals quite inappropriate considering the high purpose of our profession.

"Generally, let me say the greatest evil I see threatening our profession comes from the admission to its Bar of a class of men who never contemplate the real practice of the profession but use their prerogative as a practitioner under a mistaken idea of the dignity of the profession to seek an opportunity to take advantage of the less well-posted citizens in the preparation of contracts and dealings

between individuals as well as between other business organizations like corporations, and if some rule could be formulated which would protect the profession against this horde of vampires who care nothing for the profession and its dignity, but use its opportunities for misapplianee of the real purpose of attorneys and counsellors, it would be well."

A more appreciative expression of opinion concerning the proposition under discussion comes from a member of the Bar of Virginia, who declares:

"I especially like Rules VII and XIII, particularly the latter. It would be a great protection to the Bar to print the names of candidates *before* examination, as you suggest. Disbarment is a scare-crow in our country; therefore, the unworthy candidate should be cut off in the beginning. I have been practising law actively since June 1st, 1877, and have never known but one man to be disbarred."

Your committee reports that the preliminary advertisement referred to in the suggested system has had a long actual trial in Pennsylvania, having been in use in Philadelphia for more than a quarter of a century and been a part of the Pennsylvania state system since the establishment of the State Board of Bar Examiners nearly a decade ago, and that the results are declared to have been most satisfactory to all concerned, and in no sense a hardship to the candidates.

XIV.

From the examination fees received the members of the State Board shall receive such compensation as the highest Appellate Court of the state may from time to time by order direct.

This proposition was approved by the Section at the 1909 meeting (34 A. B. A. Rep. 765).

Of the replies received to our circular requesting suggestions and criticisms, more than 85% gave unqualified approval to the proposition in its present form. A sample of the objections made to it is appended.

The Secretary of the Minnesota Board of Bar Examiners writes:

"I think compensation should be paid by the state and all fees be turned over to the state. The practice in this state is in accordance

with the proposition except that the maximum compensation is fixed by statute."

A member of the Bar of Maine declares:

"I believe that the compensation might be directed by the state auditor rather than by the highest Appellate Court. I do not think it wise to burden that court with such details."

A prominent member of the New York Bar expresses himself thus:

"Disapproved. I think that the compensation of the state board should be a state charge, regardless of the amount of examination fees received. An examination fee and a fee for passing upon credentials is, of course, proper; but such fee should go into the state treasury, and the compensation of the examiner should not be made dependent upon the size of the fund thus received."

It is suggested that matters of detail, in fact all matters, so far as possible, which relate to admission to the Bar, should be kept free from legislative interference. In Pennsylvania an earnest effort has been made to keep all such matters within the control of the courts and it has so far been successful; indeed the State Board of Bar Examiners was established as the result of a memorial to the highest Appellate Court by the state Bar Association and without the intervention of the legislature, and the court is now exercising direct control over the rules of admission and all matters of detail, such as the fees to be paid by the candidates, the compensation to the assistant examiners, etc., etc.

XV.

The fee for examination for admission shall be \$25, and for passing upon registration credentials in the matter of general educational qualifications, \$5.

This proposition was disapproved at the 1909 meeting of the Section on the ground that this was a matter of detail which had better be left wholly to the discretion of the authorities in the various state jurisdictions. For the debate thereon, see 34 A. B. A. Rep. 765-766.

A majority of those replying to our 1910 request for criticisms are against the proposition as stated above, about 57% being opposed to it.

The objections generally advanced are clearly summed up by a well-known member of the New Hampshire Bar, who says:

"I should prefer omitting. Fees will properly vary according to time and locality, and each jurisdiction may fix its own standard to suit prevailing opinion."

A member of the Bar of New York writes:

"Disapproved. A charge that would be proper in New York State, for instance, would hardly be proper in a state like North Carolina or Florida. The amount of the fee it seems to me, should be left to each state to determine for itself."

The Chairman of the Rhode Island Board of Bar Examiners declares:

"Am of the opinion that a fee of at least \$25 should be paid which would seem from the standpoint of the Bar examiners of this state reasonably adequate. The board in this state are only allowed a charge of \$10 for first examinations; subsequent examinations upon failure in the first \$5. Out of these sums are paid expenses of printing, etc."

A well-known Ohio lawyer thus expresses himself:

"Whatever is done with regard to this rule, it seems to me that one thing should be kept in mind, and that is that opportunity for a professional career should be as nearly as possible open to every young man of ambition and determination, and that the least possible money obstacle should be placed in his way. Make your qualification for registration at the beginning as severe as you wish, or as good sense dictates is desirable, make your final examination rigid but fair, and above all, look to the moral qualification of the candidate, even to the extent perhaps of a special inquiry in each case, but don't impede the progress of any man by making the examination fee or any other fee larger than is necessary to cover the cost of doing the work right. We look into a man's moral character when he applies for membership in a lodge, for purposes of business credit, and even in making a loan on real estate, and why we shouldn't take elaborate precaution in this regard in the case of candidates for the Bar, I cannot understand. The state could afford to pay out money for investigations much better than its citizens can afford to have 'crooked' lawyers. This is certainly a case in which an ounce of prevention is worth many pounds of cure."

It is interesting in this connection to observe that in England a candidate for admission as a solicitor must affix an £80 stamp to his preliminary examination certificate before he may be registered as a student.

XVI.

The State Board shall consist of five members of the Bar, no one of whom shall receive student candidates in his office in preparation for call to the Bar, or be connected with the faculty or governing body of any law school presenting candidates for admission.

This proposition was approved in 1909 by the Section. For the debate, see 34 A. B. A. Rep. 766-767.

Of those replying to our 1910 request for criticisms, about 85% approve the proposition in the form stated. The objections stated are principally to the number of members of the board, some being of the opinion it should be larger, others smaller. In presenting this matter to the attention of the Section in 1909 the Chairman of your committee called attention to the following facts:

"In some states there are as many as ten members. In Ohio there are ten. In Maryland, three; in New York, three; but in most, five. The committee thought that five was a common basis. Of course, any state desiring to do so may make the number fifteen or three, or any other number it pleases."

It is significant that in New York, the most populous state and one having the largest number of candidates, the board consists of but three members. In one of the smaller states, Connecticut, there is a board of fifteen. Hon. Franklin M. Danaher, who has been Secretary and Treasurer of the New York Board since its formation some fifteen to twenty years ago, and whose experience as a Bar examiner is unequalled, was asked some years ago to express his views upon the subject of the best number with which to constitute a State Board of Bar Examiners, and he expressed himself so illuminatingly that the major portion of his communication is incorporated as follows:

"Logically a perfect board of Bar examiners is composed of one person, for there we have—what is absolutely to be desired—a complete uniformity in all things—in the character and quality of the question papers and in the judgment thereon as to the capacity of the applicants to practise law. The further removed we become from the unit the greater the diversity of thought and of judgment, and greater the differences in opinion as to the proper standard of educa-

tion and character required for admission to the Bar. A difference essentially necessary in the practical administration of the trust, however, and one to be sought after within bounds—for some examiners there should be, who rising from the ranks, have sympathy and knowledge of conditions surrounding those coming to the Bar from the public schools and the self-educated as well as those, who coming to the Bar sustained by wealth, have had the benefit of university and law school training. The board should be composed of practical men who will seek to raise the standard of the profession by degrees, and by encouraging those who are struggling under adverse circumstances of study, and who are not theorists who believe that those only are of the elect who are of the schools. Therefore a board of more than one is essential; there should be on it men of different views of dissimilar education and of varying surroundings, yet of experience enough in life and of a judicial temperament that will recognize the right in others, and will harmonize in essentials and agree upon details. The greater the number of the board, the more difficult it will be to procure this necessary condition of uniformity recognizing all the problems involved, and therefore the smallest number, who can handle the work and who will be in this judicial state of mind is the best.

“If three men can do the work, three is a better board than five, but as it will take three men longer to do the work their compensation should be fixed according to the fact, and they should expect and be expected to devote their time to the work, when required, as a public duty prior to all other engagements.

“We have three examiners in New York and according to the manner of our profession, each is strenuous, but we harmonize; how it would be with five, we know not. Five is not a large number and would do, but three can work together with less friction and if properly diversified as above set forth and composed of men who love their work for the good they are accomplishing for the profession and the public, is amply sufficient for all purposes.

“I cannot quite determine from the pamphlet enclosed whether you intend to recommend a board consisting of three or five examiners, but in either event if the administrative branch of the board is properly constituted and managed, you will find that it will take less time than you imagine. We have so systematized in this state that the entire administrative work falls upon myself as secretary and treasurer. All the minutiae and detail of passing upon the preliminary conditions and the conformity of the applications to the rules, and the qualifications for admission to the examination are passed upon by the administrative officer without calling the board together.

“You will find that that will be quite essential in order to induce the men of great standing in the profession to assume the duties of a Bar examiner, but that necessitates an absolutely fearless and unap-

proachable man, who is a strict constructionist, and who is not afraid of his job; who can withstand pressure (of which there will be much), and who is for the right and the law every time regardless of consequences. Pardon me—that reads very odd—that's not I—'tis your fellow.

"Such a man to be compensated out of the fees, in whom the board has absolute confidence, will cut the labor of the rest fifty per cent."

Two or three members of the Bar have expressed disapproval concerning the proposal that a member of the board should not be connected with the faculty or governing body of any law school presenting candidates for admission.

A member of the Illinois Board of Bar Examiners, for example, writes:

"As to the remainder of 16 I think it should read: 'No one of whom shall be connected with the faculty or governing body of any law school presenting candidates for admission; or shall receive student candidates in his office who shall rely upon the certificate of any one in such office in their preparation for call to the Bar.' Several of the young men in my office have been candidates for the Bar—they attending law schools, and relying on their law schools for their certificates as to eligibility for examination. Of course, I take no part in marking their papers; but it seems to me an unnecessary hardship upon a law examiner—and in this state it is generally the custom to appoint examiners who are in active practice—to say that they can have no law clerks except such as do not propose to enter the Bar; or are willing to allow all the time they spend in the office of an examiner (though at the same time they diligently study under their law school preceptors) to count for nothing in the period necessarily spent in preparation."

So also a member of the Ohio Bar expresses himself on this point as follows:

"It seems to me the first part of the rule is good. None of the State Board of Examiners ought to have student candidates in their office, and yet probably all of them are men who could be trusted in such matters; but it seems to me the last part of the rule may work out very badly. Some of the best law offices in this city could not receive clerks who were desiring to use the fact of their clerkship for the purpose of entering their profession, for instance, the office of Mr. Lawrence Maxwell of your committee. This would mean that these young men would go into inferior offices, perhaps in many cases where the moral tone was distinctly lower, and this you do not want.

I believe the very remote danger you have sought to avoid is of no consequence, in comparison with the great wrong you would do the most ambitious and worthy class of young men by forcing upon them an inferior professional environment."

On the other hand, a member of the Bar in the state of Washington declares:

"While I think the other provisions of this proposition are very important, still a man of attainments sufficient to be on such a committee will undoubtedly follow the practice laid down by Mr. Bailey in the debate on this point."

The views referred to, and expressed in the 1909 debate by Mr. Hollis R. Bailey of our committee, and who is also the Chairman of the Massachusetts State Board of Bar Examiners, are as follows:

"Upon one occasion I had a student in my office, and one of my colleagues on the board had a student in his and they both expected to be admitted by reason of their connection with us. However, we found the practice did not work well, and by an unwritten law we have declared that it shall not exist in the future."

And concerning this same point the Secretary of the Minnesota State Bar Association asserts:

"I do not think a member should receive a student candidate because the other applicants feel afraid some favoritism may be shown such candidate."

It but remains to report that in conformity to the action of the Section at its last meeting, we have arranged to transmit this report to the members of the American Bar Association, to members of the State Boards of Bar Examiners, to the deans of all American Law Schools, etc., coupled with a request for further criticism and suggestions in the light of the additional information embodied in the report.

While there seems to be an overwhelming majority in favor of the more important points, nevertheless the diversified views expressed serve to emphasize the wisdom of a nationwide discussion of the fundamental propositions, and this should eventually result in substantial unanimity of professional opinion.

At the meeting of the Section this year, should time permit, we trust that some or all of these propositions may be further

debated, and that your committee will be in a position to present a final report next year.

All of which is respectfully submitted,

HOLLIS R. BAILEY, Massachusetts,

WESLEY W. HYDE, Michigan,

HENRY H. INGERSOLL, Tennessee,

FRANK IRVINE, New York,

LAWRENCE MAXWELL, Ohio,

GEORGE W. WALL, Illinois.

LUCIEN HUGH ALEXANDER, Pennsylvania, *Chairman.*

PROCEEDINGS
OF THE
SECTION OF PATENT, TRADE-MARK AND
COPYRIGHT LAW

Milwaukee, Wis., August 28, 1912.

Meeting called to order in Room D, Auditorium Annex, at 3 o'clock, by the Secretary, J. Nota McGill, in the absence of the Chairman, Robert S. Taylor.

Robert H. Parkinson, of Chicago, was elected temporary chairman.

Reading of minutes of previous meeting dispensed with.

Arthur L. Morsell, of Milwaukee, read a paper on The Burden of Proof in Accounting in Patent Causes.

(This paper follows these minutes, page 890.)

J. Nota McGill, of Washington, D. C., read a paper on Trade-Mark Registration.

(This paper follows these minutes, page 905.)

Walter F. Rogers, of Washington, D. C., addressed the section in reference to the proposed amendments of the patent laws commonly known as the anti-trust legislation, the remarks of Mr. Rogers being particularly directed to report No. 1161, 62d Congress, second session, made by Mr. Oldfield, of Arkansas, from the Committee on Patents, to accompany H. R. 23,417.

Mr. Rogers recounted at length the experience of himself and other members of the Patent Law Association of Washington at the hearings before the House Committee on Patents, stating that there were 27 hearings in the month of May, during which the committee took nearly 1,000 pages of testimony. In his judgment the provisions of the bill as reported by the committee

constitute a most serious menace to the rights of inventors and an entering wedge which may lead ultimately to the practical destruction of our patent system. He urged that anti-trust provisions should be enacted, if at all, as amendments to the Sherman Act and not as amendments to the patent law. He recommended that all the members of the section impress upon their representatives in Congress the seriousness and far-reaching effects of the proposed legislation.

C. C. Linthicum, of Chicago, also spoke in opposition to the measure under discussion, and urged that all members take an active interest and endeavor to prevent the passage of ill-considered measures affecting the patent system.

The acting chairman stated that in his opinion, while the purpose of the proposed legislation is to benefit the poor man, the practical effect will be to jeopardize his interests and only benefit the rich corporations; that it would enable such corporations to appropriate the invention by litigation precipitated before the patentee had an opportunity to introduce it, overwhelming him with such litigation before he had means to combat it; that if the members of this section were considering only their own financial interests as lawyers in litigation, and were not moved by earnest and sincere consideration of public interest, they would look with favor upon, or at least not oppose, the provisions of the bill, which must produce a harvest of litigation.

The section was also addressed by E. W. Bradford, Walter E. Knight, and W. G. Henderson.

The secretary read the following letter from Robert S. Taylor, the Chairman of the Section:

August 21, 1912.

DEAR MR. MCGILL: I wrote you some time ago that I would not be able to be in attendance at the next meeting of the Bar Association. I wish now through you to resign my office as President of the Patent Section of the Association and request that you elect my successor at the next meeting.

I wish to add an expression of my sincere appreciation of the kindness of the Section in calling me to preside over its meetings through so many years. Those were delightful days and

one could wish them to continue forever. But old tempus will fugit, and is sure to get in his work at last, and the years come along to curtail our activities and joys. Long may you live before they find you.

Very sincerely yours,

R. S. TAYLOR.

Robert H. Parkinson was elected Chairman, and J. Nota McGill was elected Secretary.

E. W. Bradford and C. C. Linthicum suggested that the Chairman convey to Judge Taylor, by letter, assurances of our appreciation of his faithful services as Chairman, and in this the Section unanimously concurred.

Subsequently Mr. Parkinson wrote Judge Taylor as follows:

August 29, 1912.

DEAR MR. TAYLOR: I only returned from the East early this week and was in attendance upon the American Bar Association yesterday at Milwaukee.

In accepting your resignation as Chairman of the Patent Section it was voted unanimously that I be instructed to convey to you assurances of the very high esteem in which you are held by us; of our appreciation of the zeal, self-devotion, ability and industry with which you have for many years served our section, our profession and the public; of our sincere sympathy for you in your sickness and that of your wife; of our hope for a speedy recovery; of our affectionate regard for you and earnest wish that you may enjoy every good thing. I transmit this message with warm personal regards, extending to you and your wife my greetings and best wishes.

Very truly yours,

ROBERT H. PARKINSON.

The Section was informally addressed by Judge Arthur C. Denison, U. S. Circuit Judge, Sixth Circuit, and also by Judge William B. Sheppard, U. S. District Judge, Northern District of Florida.

The meeting thereupon adjourned *sine die*.

J. NOTA MCGILL,
Secretary.

THE BURDEN OF PROOF IN ACCOUNTING PROCEEDINGS IN PATENT SUITS.

BY

MR. ARTHUR L. MORSELL,
OF THE MILWAUKEE BAR.

Perhaps there is no branch of the patent law which is so unsatisfactory to litigants as the lengthy, tedious, and expensive accounting proceedings following a successful decision on behalf of the complainant in an infringement suit. Indeed, these proceedings have become so burdensome that in a large majority of cases the attorney advises his client to waive an accounting and rest content with his injunction. This advice is given not only on account of the great expense involved, which, in many instances, is practically prohibitive, but also on account possibly of the more or less unsettled condition of the practice, and differences of opinion in regard to the interpretation of the decisions, as well as the technical difficulties in the way of proof.

The subject under discussion has received added interest in view of the recent decision of the Supreme Court of the United States in the case of *Westinghouse Electric & Mfg. Co. vs. Wagner Electric & Mfg. Co.*, decided June 7, 1912, and reported in 180 O. G. 323. This decision treats of the condition where the infringer has used the patented invention in combination with other features either open to the public to use, or devised by the infringer, or shown in other patents, and the decision also deals with the question of the burden of proof in apportioning the profits, where it is impossible to accurately or approximately apportion the profits between the patented features and improvements.

In all accounting proceedings there is one general and well-recognized rule, which is,

That the burden of proving profits and damages is upon the plaintiff.

There is also another well-recognized principle which has been much discussed in proceedings of this character, and which principle results directly from the main rule. This subsidiary rule is,

Where the defendant is using, in addition to the patented features, other features open to him to use, the burden of proof is on the plaintiff to apportion the profits between the patented features and said other features. And if the plaintiff fails to make such apportionment only nominal damages can be obtained, although it is always open to the plaintiff to show that the entire value of the machine is due to the patented features. In other words, where the patented features confer all the value to the device and cause its sale, the plaintiff is entitled to all the profits realized by the defendant upon the entire machine.

In a few cases it has been held by the courts that the burden is upon the *defendant* to apportion the profits between the patented device and other devices manufactured and sold by the defendant, where the patented devices are intermingled with other devices. In other words, it has been held that where confusion arises through such intermingling, the burden of apportionment is then upon the defendant, and not upon the plaintiff. It is believed, however, that the weight of authority clearly supports the proposition that the burden of apportionment is upon the plaintiff, even though confusion exists. Indeed, this principle was recognized in the recent Supreme Court decision, subject to the exception therein noted, and which exception will be fully considered later on.

Among the cases which have held that the burden is upon the *defendant* where confusion exists, may be mentioned the grain drill cases, viz:

McSherry *vs.* Dowagiac, 160 Fed. 948, decided by the Circuit Court of Appeals of the Sixth Circuit, in which case the Hoyt patent No. 446,230 was involved;

Dowagiac Mfg. Co. *vs.* Superior Drill Co., 162 Fed. Rep. 479, decided by the Circuit Court of Appeals of the Sixth Circuit, in which the Packham patent No. 567,868 was involved; and

Brennan *vs.* Dowagiac, 162 Fed. 472, decided by the Circuit Court of Appeals of the Sixth Circuit, in which the Hoyt patent No. 446,230 was again involved.

In the first of these cases it was decided that if a patent covers only a particular feature of an article sold by an infringer, the burden rests on him (that is the infringer) to show that the profits realized by him from the sale were not solely attributable to such feature.

In the second of these cases it was held that complainant should recover the profits which defendant made on the entire machine, for the reason that defendant had confused the profits.

In the last mentioned of these cases it was held that the Hoyt patent covered the entire machine, and the infringer was liable for the profits made on the entire machine.

The Court of Appeals of the Eighth Circuit, in the case of *Dowagiac Mfg. Co. vs. Minnesota Moline Plow Co.*, 183 Fed. 314, in which the Hoyt patent No. 446,230 was also involved, refused to follow the other cases referred to and held that,

“The patented structure contained only a single novel element, and the burden was on the plaintiff to apportion the profits between the novel feature and the remainder of the structure.”

The Court of Appeals of the Eighth Circuit repeated precisely the same doctrine in *American Street Flushing Co. vs. St. Louis F. M. Co.*, 192 Fed. 121.

The case of *Kansas City Hay Press Co. vs. Devol*, 127 Fed. Rep. 365, is also an important case on the subject.

In this case it was held that,

“Where defendants used complainant’s patented improvement in connection with other parts of a machine which are free to all, defendants are not liable for the entire profits derived from the use of such machines, because of their failure to keep separate the profits derived from the use of complainant’s improved device, and unless complainant apportions his damages and defendant’s profits between the patented and unpatented features, or shows that the marketable value of the machine is due to the patented features, or shows an established license fee for the use of the patented features, he can recover only nominal damages and profits.”

To the same effect are the cases of *Seymour vs. McCormick*, 16 Howard 480, and *Westinghouse vs. New York Air Brake Co.*, 140 Fed. 515.

In equity, the plaintiff is entitled to recover such gains and profits as have been made by the infringer from the unlawful use of the invention, and, since the act of July 8, 1870, in cases where the injury sustained by the infringement is plainly greater than the aggregate of what was made by the defendant, the plaintiff is entitled to recover the damages he has sustained in addition to the profits received. In other words, what the infringer makes is "profits," and what the owner of the patent loses is "damages."

At an early date the courts decided that in ascertaining the profits on accountings for infringement, the true standard of comparison is that appliance which was open to the defendant, and, next to the plaintiff's invention, could have been most advantageously used. That is to say, if defendant could have used another device, complainant would only be entitled to the difference in profits realized, if any, by the making of the infringing device over what the defendant would have made in profits, if he had made and sold the next best device.

In other words, the inquiry is, "What was the advantage in cost, in skill required, in convenience of operation or marketability gained by the use of the patented invention; or what advantage did the defendant derive from using complainant's invention over what he had in using other processes then open to the public?"

See *Brown vs. Zinc Co.*, 179 Fed. 309; and *Columbia Wire Co. vs. Kokomo Steel & Wire Co.*, 194 Fed. 108, the latter case decided by the Court of Appeals of the Seventh Circuit. This latter case is interesting from the view point that it discussed fully the standard for comparison and held that,

"The measure of the profits recoverable from an infringer of a patent for a machine is the advantage he gained by the use of the patented machine, *as compared with other machines which were open to him at the time of the unlawful appropriation, and not only with such as were open at the date of the patent.*"

AUTHORITIES AS TO BURDEN OF PROOF.

Authorities holding that the burden of establishing damages or profits, after the court has determined the infringement, rests upon the plaintiff who seeks to recover them, are numerous.

In *Dobson vs. Hartford Carpet Company*, 114 U. S. 444, the Supreme Court, after discussing the necessity of separating and apportioning, so as to get the specific profits due to the patented design, said:

"The same principle is applicable as in patents for inventions. *The burden is upon the plaintiff* and if he fails to give the necessary evidence, but resorts, instead, to inference and conjecture and speculation, he must fail for want of proof."

In *Dobson vs. Dornan*, 113 U. S. 17, the Supreme Court said:

"The *plaintiff* must show what profits or damages are attributable to the use of the infringing design."

In *Tilghman vs. Proctor*, 125 U. S. 151, the Supreme Court said:

"The *plaintiff* has the burden of proving the amount of profits that the defendants have made by the use of his invention." *Blake vs. Robertson*, 94 U. S. 728; *Elizabeth vs. Pavement Co.*, 97 U. S. 126; *Dobson vs. Hartford Carpet Co.*, 114 U. S. 439, 444, 445.

To the same purport are,

Keystone Mfg. Co. vs. Adams, 151 U. S. 147; *Burdell vs. Denig*, 2 Fish, Pat. Cases, 599; *Goulds Mfg. Co. vs. Cowing*, 1 Banning & A. 382, 383; *Buerk vs. Imhauser*, 2 Banning & A. 456; *Schillinger vs. Gunther*, 3 Banning & A. 497; *Starr Salt Caster Co. vs. Crossman*, 4 Banning & A. 567; *Kirby vs. Armstrong*, 5 Fed. 802; *Faulks vs. Kamp*, 10 Fed. 675; *Bostock vs. Goodrich*, 25 Fed. 819; *Royer vs. Coupe*, 29 Fed. 371; *Roemer vs. Simon*, 31 Fed. 41; *United Nickel Co. vs. Central Pac. R. Co.*, 36 Fed. 189; *Webster Loom Co. vs. Higgins*, 43 Fed. 675; *Royer vs. Schultz Belting Co.*, 45 Fed. 51; *Mosher vs. Joyce*, 51 Fed. 445; *Hunt Bros. Fruit Packing Co. vs. Cassidy*, 53 Fed. 261; *Robbins vs. Illinois Watch Co.*, 81 Fed. 957; *Elgin Wind Power & Pump Co. vs. Nichols*, 105 Fed. 783; *Westinghouse vs.*

New York Air Brake Co., 115 Fed. 647; Blake *vs.* Robertson, 94 U. S. 733; McCreary *vs.* Pennsylvania Canal Co., 141 U. S. 459.

CASE OF BECKWITH *vs.* MALLEABLE IRON RANGE CO.

A brief reference to a case in which the writer of this paper appeared as one of the counsel representing the defendant, might be exceedingly interesting as bearing upon the general subject under discussion.

In this suit, complainant having secured a decree for profits and damages, the case came before the master on accounting proceedings. A summons was issued by the master directing the defendant to furnish a statement giving elaborate information for the use of complainant. As a matter of fact, the *decree* in the case did not require the *defendant to file a statement*, but directed the master "to ascertain, take and state, and report to the court an account of the number of infringing devices, also the gains and profits," and further directing that "complainant have a right to cause an examination of the officers and employees of defendant corporation *ore tenus*, or otherwise, and also the production of books, vouchers and documents of the corporation."

The *summons* as issued by the master, however, called upon the *defendant* to render a sworn statement of account in writing, requiring voluminous information, such, for instance, as the furnishing of data relative to the number of devices made and sold to which the infringing combination was applied, and the gains and profits made thereon, the names and addresses of purchasers thereof, with date, the number bought, and complete description of the said devices sold, together with the selling price of the said devices with and without the attached patented combination, and, furthermore, itemization of the manufacturer's cost of the article to which the patented combination was attached, and cost of labor thereon, and the material therefor, and the selling price thereof.

On the return day of the summons the defendant appeared by its solicitors, and also defendant's secretary was present. De-

fendant's counsel moved to quash the master's summons as unauthorized by the decree, at the same time offering defendant's secretary for examination. Counsel for defendant also stated that they had not made an account because they desired the method of procedure settled at the outset, and declined to furnish the sworn report until there had been a ruling on the motion to quash, although an offer was made to produce the books.

At this point complainant's counsel called defendant's secretary as a witness. This witness testified that the number of devices with the infringing combination sold during the infringing period was 45,200, and that all other information required was contained in defendant's account books. The master thereupon overruled the motion to quash, and the matter was continued to another day named. On that day the parties again appeared, and defendant produced a sworn statement, and eleven boxes of books and records. The statement showed the number of devices with the infringing combination or attachment sold during the infringing period, but did not contain the other information required in the summons. The master adhered to his former ruling, stating that it appeared that defendant was able to furnish the required information, but that it would require considerable time and expense. Thereupon the matter was certified to the court for its directions.

It appeared from the account presented and an affidavit of a public accountant, that defendant's clerks could not be conveniently spared from their regular work to prepare the account; that it took the accountant 36 days to find the number of devices with the infringing combination or attachment sold, which was 46,797, and that it would take about four months and cost about \$1820 to procure all the information required by the summons. It further appeared from the sworn statement that defendant kept its books in the usual method of keeping the account books of a manufacturing concern, where many different articles are produced for sale.

At the hearing of the matter by the court, the complainant urged that the burden of preparing the account was properly

put upon the defendant by the summons, no matter what the expense might be, and without reference to the weight which such account might have as evidence, or the question of costs. Complainant's position further was that Equity Rule 79 applies to patent cases. This rule is as follows:

"All parties accounting before a master shall bring in their respective accounts in the form of debtor and creditor; and any of the other parties who shall not be satisfied with the accounts so brought in shall be at liberty to examine the accounting party *viva voce*, or upon interrogatories, in the master's office, or by deposition, as the master shall direct."

Complainant also relied upon the case of *Goss Printing Co. vs. Scott*, 148 Fed. Rep. 393.

Defendant, on the other hand, maintained that the burden of proof in accounting proceedings being upon the plaintiff, it was not incumbent upon defendant to furnish any statement whatever, but only to produce the officers of the defendant company for examination, and also produce the books of the company; and that furthermore Equity Rule 79 did not apply to patent cases.

The court held as follows:

"It would appear from an examination of many cases of patent accounting that Equity Rule 79 has been entirely ignored, although it is common practice for a master to require various reports and statements from both parties. The rule is nearly a literal copy of one of the rules of the English Chancery adopted in 1828, before patent accountings were known. From the language used one would infer that it was intended to apply only to cases of accounts where one party owes money to another and where the burden is upon the defendant. It would not seem to fit a patent accounting where the burden is on the complainant. In view both of the practice and the language and history of the rule, it may be laid on one side as entirely inapplicable. To follow its provisions in patent cases would shift the burden of proof from the plaintiff to the defendant and thus run counter to the settled rule of all the federal courts."

"*Goss Printing Co. vs. Scott*, 148 Fed. Rep. 393, is cited for complainant, but in that case the *decree* itself, a copy of which was produced on the hearing of this matter, required the *defendant* to bring in an account substantially in conformity with Rule 79.

"While the defendant cannot be compelled to assume the burden of proving complainant's case for him, the master may at any time call for such reports, accounts and statements from defendant, or its officers or employees, as may in his judgment aid or expedite the result and which will not entail any undue burden of expense or interference with defendant's business. The master's summons should be quashed and the accounting proceed as the master may direct."

The case was decided by Hon. A. L. Sanborn, District Judge of the Western District of Wisconsin, and is reported in 195 Fed. Rep. 291, the title of the case being *Beckwith vs. Malleable Iron Range Company*.

It is a most important decision in that it is the first time, so far as the writer of this paper is aware, where it has been decided that a defendant cannot be compelled to file a statement in conformity with a master's summons, particularly where the *decree* does not direct the defendant to file a statement.

And it is furthermore the first case, so far as the writer is aware, where it has been held that Equity Rule 79 is inapplicable to patent cases.

Following the decision of Judge Sanborn the complainant filed with the Court of Appeals of the Seventh Circuit application for leave to file a petition for an alternative writ of mandamus directed to the lower court to compel said court to reverse or revise its decision. The application for leave to file the petition for this writ came up for argument before the Court of Appeals in the April, 1912, term, and defendant urged that a writ of mandamus could only lie where a subordinate court has refused to do some ministerial act which it ought to do, or where the lower court has refused to proceed with or decide a case presented before it, or where the lower court has refused to perform some duty imposed by law or by the court. Counsel for defendant therefore maintained that the court below in this particular case did act and did assume jurisdiction of the question presented, heard the arguments on both sides, and issues were presented to the court on their merits. The decision by the Court

of Appeals on the application for leave to file a writ of mandamus is now awaited with interest.

If the law is as contended for by complainant in this suit, then a complainant would be privileged to call on defendant for a sworn statement, and this statement would be binding upon the defendant but not binding upon the complainant. Now assume that defendant in the sworn statement should set forth that the profits realized were \$10,000. Assume, further, that the plaintiff accepts this statement without taking any testimony whatever. Certainly, under such circumstances, the burden of proof instead of being upon the plaintiff, as the law requires, is shifted to the defendant, and this too at a considerable outlay or expense and loss of time on the part of defendant. In other words, under the assumed case, the complainant can readily shift to the defendant the burden of proof which is imposed upon him by the decisions.

DOCTRINE OF APPORTIONMENT OF PROFITS, AND DISCUSSION OF
THE RECENT SUPREME COURT DECISION IN CONNEC-
TION THEREWITH.

The general rule on the subject of apportionment of profits, as heretofore pointed out, is that,

"Where the patented invention is less than the whole machine, the complainant must apportion between it and the features and inventions of others, patented or unpatented, unless he can show that the machine was not usable or salable without the presence of the patented invention, and if the plaintiff is unable to do so he is only entitled to nominal damages."

In other words, the general rule, without the modification hereinafter specifically referred to as embodied in the recent Supreme Court decision, is that the *complainant* must apportion where the patented invention is less than the whole machine and the only exception which has been recognized is that the *profits and damages can only be calculated on the whole machine, where the patented feature confers on the whole machine its entire value as a marketable article.*

The above rule was clearly and tersely stated in the leading case of *Garretson vs. Clarke*, 111 U. S. 120, as follows:

"The patentee must in every case give evidence tending to separate or apportion the defendant's profits and the patentee's damages between the patented feature and unpatented features, and such evidence must be reliable and tangible, and not conjectural or speculative; or he must show by equally reliable and satisfactory evidence that the profits and damages are to be calculated on the *whole machine*, for the reason that the *entire* value of the whole machine, as a *marketable article*, is properly and legally attributable to the patented features."

The doctrine of confusion of goods has heretofore been fully discussed, and cases cited to show that the weight of authority is to the effect that the burden of apportionment is on the plaintiff. Confusion of goods arises, it will be recalled, where the patented features have been mixed with other goods or devices made by the defendant, or where the patented features are employed in connection with other features open to the defendant to use. This doctrine of confusion of goods was fully discussed in the recent Supreme Court Decision of *Westinghouse vs. Wagner*.

The Supreme Court decision involved a case which was before the master to state an account of damages and profits arising from the infringement of claim 4 of patent No. 366,362, prior to June 24, 1902. The patent in question related to improvements in transformers or converters.

On the hearing it appeared that the Wagner Company manufactured various electrical appliances that had been made in the same shop, by the same workmen, and under the same general superintendence as that employed in making the transformers. No account had been kept which would show the cost of labor and shop expenses attributable to these transformers, nor was there anything on the books indicating what, if any, profit had been realized from their sales. The gross receipts from the various goods so manufactured were mingled.

The defendant in the case also claimed that the infringing transformers contained elements of the patent which were not

embraced in Claim 4, for which alone the suit was proceeding, and that no profits due to these elements could be recovered in the case, unless the plaintiff apportioned the gains due solely to Claim 4.

The master made an elaborate analysis of the data before him, and arrived at the conclusion that the company had made a profit of \$132,433 on \$955,271.76, which the books showed had been received from the sale of several thousand infringing transformers. The master also found that Claim 4 was an entity, and that all of the commercial value of those sales by the defendant was due to the use of Claim 4 of plaintiff's patent and not to additions made by the defendant.

The Circuit Court and Circuit Court of Appeals (one judge dissenting) held (173 Fed. 361) that Claim 4 was a limited detail claim; that the additions made by defendant were non-infringing and valuable improvements which contributed to the profits; that the burden of apportionment was upon the plaintiff, and, having failed to separate the profits, he was only entitled to a decree for nominal damages.

The case came before the Supreme Court on a writ of Certiorari, Justice Lamar, who delivered the opinion of the court, stating that the writ was issued in view of the holding that though the master found that the defendant had made a profit of \$132,000 from the sale of infringing transformers, the plaintiff could yet only recover \$1.00 because it failed to separate the profits made by its patent from those made by defendant's additions.

Justice Lamar first took up and discussed generally the question of the burden of proof and held that,

"Where a patent, though using old elements, gives the entire value to the combination, the plaintiff is entitled to recover all the profits. . . . Whereas if the plaintiff's patent only created a part of the profits, he is only entitled to recover that part of the net gains, and that the burden of proof is upon the plaintiff to establish this.

The Supreme Court in this particular therefore merely reiterated the old and well-known doctrine in this respect.

The decision then treats of the doctrine of confusion of goods, and in this connection states:

"The rule as to the burden of proof has, however, been so applied that this statutory right has been often nullified by those infringers who had ingenuity enough to smother the patent with improvements belonging to themselves or to third persons. In such cases, the greater the wrong the greater the immunity; the greater the number of improvements, the greater the difficulty of separating the profits. And that if difficulty could only be converted into an impossibility the defendant retained all of his gains, because the injured patentee could not separate what the guilty infringer had made impossible of separation. Manifestly such conclusion demonstrated that either the rule or its application is wrong. The rule is sound for it announces the general proposition that the plaintiff must prove its case and carry the burden imposed by law upon every person seeking to recover money or property from another. But the principle must not be pressed so hard as to over-ride others equally important in the administration of justice. It may serve to illustrate the rule, if at the risk of stating the obvious, we apply it to the various steps of this case."

It appears from the decision that in defendant's device were employed not only the elements of Claim 4 but also other elements or additions. The court on this subject stated:

"But if it be assumed, as was found to be the fact by the court, that the spaces were non-infringing and valuable improvements, it may then have *prima facie* appeared that these changes had contributed to the profits. It so, the burden of apportionment was then logically on the plaintiff, since it was only entitled to recover such part of the commingled profits as was attributable to the use of its invention."

The Supreme Court, therefore, distinctly adhered in this Westinghouse-Wagner case to the well-recognized rule that where a device is made up of the patented or claimed structure, and other features not covered by the claim of the patent relied upon, and these other features are non-infringing and valuable improvements, the burden of apportionment is, nevertheless, upon the plaintiff.

The court further held that as the plaintiff had proven to the satisfaction of the master the *existence of profits*, the plaintiff

had carried the burden imposed by law and established every element necessary to entitle it to a decree, except one. As to that the act of the defendant *had made it not merely difficult but impossible* to carry the burden of apportionment. But the plaintiff offered evidence tending to establish a legal equivalent. It had proven the existence of a fact, which, whether treated as a rule of evidence or as a matter of substantive law, would entitle it to a decree for all the profits. The method was different from that mentioned in the second branch of the rule in the Garretson case, because the plaintiff had now presented proof to demonstrate its right to the whole fund, for the reason that the defendant had inextricably commingled and confused the parts composing it. This result would not be in conflict with the principle which in the first instance imposed the burden of proof on the plaintiff, but merely gave legal effect to a new fact, which, as a matter of law, entitled the patentee to a particular judgment.

The decision then goes on to distinguish the case before it from Garretson and other decisions, which decisions it was supposed established the doctrine without qualification that defendant is entitled to retain all the profits where the patentee is unable to make an apportionment. The court said in this respect:

“An analysis of the facts of this case will show that they do not sustain so extreme a doctrine. For they deal with instances where the plaintiff apparently relied on the theory that the burden was on the defendant, and for that or other reasons *made no attempt whatever to separate the profits*. None of the cases cited discuss the rights of the patentee who has exhausted all available means of apportionment, who has resorted to the books and employes of the defendant, and by them or expert testimony proved that it was impossible to make a separation of the profits.”

In other words, in the case before the Supreme Court the plaintiff, in the first place, established that profits had been made, and in the second place did everything possible to discharge the burden imposed upon it, but notwithstanding found it impossible to make an apportionment. In the Garretson and other cases it would appear that the plaintiff relied solely on the theory that the burden was upon the defendant in the case

of confusion of goods, and *made no attempt whatever* to separate the profits. Therefore, the Supreme Court decision still supports the rule that the burden of apportionment is upon the plaintiff, but adds an exception to this general rule to the effect that where the plaintiff has established the fact that profits were made, and has done everything possible to make the apportionment, but found apportionment an impossibility, then the defendant must apportion. In other words, the burden of proof is under such circumstances shifted to the defendant. As to this shifting the Supreme Court says:

“But such burden (meaning the burden upon the defendant) is not imposed by law; nor is it so shifted until after the plaintiff has proved the existence of profits attributable to his invention and demonstrated that they are impossible of accurate or approximate apportionment. It then the burden of proof is cast on the defendant, it is one which should justly be borne by him, as he wrought the confusion.”

The foregoing review of the numerous decisions of the courts makes it clear,—

1st: That the burden of proving damages and profits is upon the plaintiff; and

2nd: That where the defendant's device has valuable features in addition to the patented features, and not covered by the patent, and between which and the patented features there is a confusion in regard to profits (unless the defendant can show that the patented features give to the machine its entire value), or where the confusion arises because of inability to separate the profits made by defendant from the manufacture and sale of the patented features from the profits of other devices manufactured by the defendant, then the burden in either of such cases is still on the plaintiff.

It is also entirely clear that these principles were fully sustained in the Supreme Court case, although the Supreme Court held, in the matter of confusion of goods, that the burden which is ordinarily on the plaintiff is discharged when the plaintiff shows that the defendant *has made profits*, and that it is impossible to apportion the same. Under these circumstances, the burden is shifted to the defendant.

TRADE-MARK REGISTRATION.

BY

J. NOTA MCGILL,
OF WASHINGTON, D. C.

The Trade-Mark Act of 1905 differed from that of 1881 in two important particulars: First, in providing for the registration of marks used on goods in interstate commerce, as well as in commerce with foreign nations and Indian tribes, and, secondly, in reducing the fee from twenty-five dollars to ten dollars.

Doubtless to these changes in the law is due the large increase in the number of registrations. In the first seven years of operation under this act, 42,945 certificates were issued. This is but 1413 short of the total registrations in the preceding thirty-five years under the Acts of 1870 and 1881, and 6,777 greater than the registrations granted in twenty-four years under the Act of 1881. In other words, under the Act of 1870—the first federal trade-mark registration law—8190 certificates were issued; under the Act of 1881, 36,168, and under the Act of 1905, 42,945. In the first seven years under the present law there were nearly 65,000 applications for registration; 1200 oppositions and 218 cancellation proceedings, representing in round figures nearly seven hundred thousand dollars paid to the government by owners of trade-marks.

Oppositions are fomented by the activities of certain agencies by which all marks laid out for publication are closely scanned and notices sent to all who might by any possibility, however remote, be led to apprehend possible conflict, or recognize a plausible ground for a contest. It is not uncommon, in consequence, for the owner of a mark used unmolested for many years, and in the exploitation of which thousands of dollars have been expended, to find himself confronted by another, often from a

remote region, and until the present time each ignorant of the use by the other, or at least with no thought of conflict until prompted to the belief that a contest may prove remunerative. It is not possible to estimate the expense of defending opposition proceedings, or the amount paid to buy off conflicting interests.

While opposition proceedings impose a heavy burden, the latter is small in comparison with the number and variety of interferences, involving, in most cases, a large expenditure of time and money in taking proofs to establish or defend one's title. These interference cases are especially vexatious, frequently embracing marks having but little in common either as to symbol or classes of goods. Owners of marks long registered are forced to defend their title even when all the parties to the cause are agreed that there is no actual conflict, either in the marks or the goods to which the respective marks are applied. They are powerless to terminate the proceedings without a concession or judgment.

But a matter of still greater moment is the existing practice of analytically considering all marks and rejecting them on technical grounds, often on the theory that if a single feature of the mark has been previously used it is not entitled to registration. Adverse rulings invite encroachment, materially impairing the value of the mark upon which frequently a large and profitable business may depend. The rejections are more frequent than otherwise and on grounds which would have no weight were they raised in opposing a suit for infringement.

It is not believed that the Congress ever intended to make it difficult to obtain registration. The public interests do not require that it should be. The public parts with nothing; it gives to the owner of the trade-mark practically nothing he did not already possess. The value of the mark as such remains the same whether it be registered or not.

And after contemplating the risk that is run and the expenditure incurred by owners of trade-marks in seeking, obtaining, opposing and defending registrations, the question arises: What advantage ensues from registration? Wherein are the interests of owners better conserved than if they had not registered? What

right have they been enabled to enforce after registering that could not be recognized before?

The only instance in which registration may be truly essential is where registration abroad is a necessity and registration here is a condition precedent to foreign registration. Aside from this, the only advantage flowing from registering is the creation of a public record tending to show time of adoption and use.

It is true that by registering suits may be brought in the federal courts against infringers in the state where the owner is domiciled. But is this a substantial advantage? Are not the state courts equally qualified to mete out justice and to decide questions involving conflicting marks? It is also true that there is a certain moral advantage, if I may use that term, since it is claimed that greater respect is accorded a mark registered by the federal government.

But granting that this also is a substantial advantage, as well as that of creating a public record of ownership, could not the same end be accomplished by a law less complicated and the administration of which would be freed from the highly technical, frequently absurd, method of treating applications for registration? If the law allowed the owners of marks to obtain registration by simply lodging properly prepared applications—abolishing opposition and interference proceedings—the public interests would be equally as well conserved as they are now, and this without imposing upon manufacturers the great expense now being incurred, and at the same time free the government officials and the Court of Appeals from ruling on matters frequently of no public importance and settling no proposition of law of any value as precedents save on ministerial questions. All this could be avoided and money saved by allowing registration to all comers, leaving the question of validity to the courts to decide should the occasion arise. Not only will owners of trade-marks be saved a large proportion of the money now expended but they will be spared the possibility of injury arising from adverse rulings as to title and legality of marks. If this were done the registration of trade-marks might with propriety be assigned to the Department of Commerce and Labor to which it logically belongs.

PROCEEDINGS

OF THE

COMPARATIVE LAW BUREAU

The Fifth Annual Meeting of the Comparative Law Bureau of the American Bar Association, was held in Room A of the Auditorium Annex, Milwaukee, Wisconsin, on Monday, August 26, 1912, at 2 P. M.

Simeon E. Baldwin, of Connecticut, presided.

Eugene C. Massie, of Virginia, the Treasurer, and William W. Smithers, of Pennsylvania, the Secretary, were also in attendance.

The meeting was attended by the following officers of the American Bar Association, viz: Stephen S. Gregory, President; George Whitelock, Secretary, and Frederick E. Wadhams, Treasurer.

The following members of the American Bar Association, thereby being members also of the Bureau, were also present: Frederick L. Taft, Cleveland, O.; E. R. James, Cincinnati, O.; William O. Hart, New Orleans, La.; Edwin M. Abbott, Philadelphia, Pa.; Herbert Harley, Manistee, Mich.; H. A. Bronson, Grand Forks, N. D.; William G. Hastings, Lincoln, Neb.; Francis Fisher Kane, Philadelphia, Pa.; Burton Smith, Atlanta, Ga.; R. B. Mallory, Milwaukee, Wis.; and H. St. George Tucker, Lexington, Va.

The following institutional members were also represented by written communications or by the delegates named:

University of North Dakota: Roger W. Cooley, H. A. Bronson and Earl Henry, Jr.

Bar Association of Tennessee: L. D. Smith, E. E. Barthell and Robert S. Young; with Walter D. Wright and Caruthers Ewing, alternates.

Law Association of Philadelphia: William W. Smithers and Robert P. Shick; with William D. Neilson and Francis Fisher Kane, alternates.

University of Pennsylvania Law School: William Draper Lewis and Ralph J. Baker.

Western Reserve University Law School: Walter T. Dunmore and Homer H. Johnson.

State Library of Massachusetts: Roscoe Pound and John H. Wigmore; with William D. Lewis and George W. Kirchwey, alternates.

Supreme Court Library, State of Illinois: Frank K. Dunn and O. N. Carter; with W. R. Curran and Harry Higbie, alternates.

The University of Chicago Law School, Walter B. Cook and James P. Hall; with F. W. Schenk, alternate.

Chicago Correspondence School of Law: E. C. Westwood; with Charles F. Westwood, alternate.

University of Maine College of Law: L. A. Emery and William E. Walz.

Yale University Law Department: Simeon E. Baldwin and Henry Wade Rogers.

Bar Association of the District of Columbia: Henry E. Davis and H. Prescott Gatley; with Fulton Lewis as alternate.

The Law Library of Dayton, O.: George R. Young.

The University of Nebraska, College of Law: William G. Hastings and Ernest B. Conant.

University of Michigan, Department of Law: Daniel C. Goddard and Henry M. Bates.

The Director was authorized by the Bureau to send the following cablegram:

“Institut de Droit International, Christiania, Norway: Comparative Law Bureau of American Bar Association opening annual session today, sends cordial greetings.

SIMEON E. BALDWIN, *Director.*”

The Director then delivered his annual address as follows:

(The address follows these minutes, page 911.)

It was announced that the annual report of the Board of Managers of the American Bar Association including the Treasurer's report, had been printed by that Association, and distributed among the members thereof.

The Treasurer's report was received, approved and ordered to be filed.

On motion of William O. Hart, the Director appointed the following committee to nominate officers and managers for the ensuing year, viz: William O. Hart, William G. Hastings and H. A. Bronson, who after retiring, reported the following nominations:

For Director: Simeon E. Baldwin, of Connecticut.

For Secretary: William W. Smithers, of Pennsylvania.

For Treasurer: Eugene C. Massie, of Virginia.

For Managers: Frederick W. Lehman, of Missouri; Andrew A. Bruce, of North Dakota; William Draper Lewis, of Pennsylvania; Roscoe Pound, of Massachusetts; John H. Wigmore, of Illinois.

These respective nominees were thereupon unanimously elected for the ensuing year.

William O. Hart moved that the Board of Managers be requested to consider the question of having the report of the Director of the Bureau placed on the regular program of the American Bar Association; and take the matter up in due course with the Executive Committee.

Motion seconded and unanimously carried.

On motion the Bureau thereupon adjourned *sine die*.

WILLIAM W. SMITHERS,
Secretary.

NOTE.—In accordance with By-Law XV, Frank B. Kellogg, President of the American Bar Association, appointed the following gentlemen to act as Managers of the Comparative Law Bureau during the ensuing year, 1912-13: Stephen S. Gregory, of Illinois; Edgar H. Farrar, of Louisiana; Frederic D. McKenney, of District of Columbia, and George W. Kirchwey, of New York.

ANNUAL ADDRESS OF THE DIRECTOR OF THE BUREAU OF COMPARATIVE LAW.

BY

SIMEON E. BALDWIN.

I call your attention, first, to some of the events of the past year in the field of international law, both public and private, and to the general progress made in directions pointing to the ultimate goal of world unity. In that progress, several important steps have been taken by the Carnegie Endowment for International Peace.

DOINGS OF THE CARNEGIE ENDOWMENT.

1. It has undertaken to compile a set of reports of all known international arbitrations. This will include all decisions of the Hague Tribunal, but they will also be published separately. The general series will be kept up permanently.

2. It will finance an international academy of international law, to be established in 1913 at the Hague in the Palace of Peace built by Mr. Carnegie. The sessions will be confined to the months of August, September and October. The lecturers will be engaged for a single year, or other brief term, not more than one coming at a time from any one country. The annual grant is 200,000 francs.

3. It has acquired the right to ask the Institute of International Law for advice on international law problems, from time to time, by making it an annual subvention. It is probable that this will take the shape of an allowance to its members for their traveling expenses in attending its sessions.

The twenty-seventh session of the Institute opens at Christiania, in Norway, today.

4. The Carnegie Endowment for International Peace has also provided an annual subvention of 75,000 francs to the new Union

of International Associations, which has its seat at Brussels. This Union commenced in 1912 the important work of publishing a monthly review dealing with facts and ideas concerning the common life of the civilized world, and the organizations which tend to co-ordinate and unify it. It is called *La Vie Internationale*, and appears from the central office of the Union in Brussels. The second number gives a list of the different international conferences and congresses to be held in 1912, which number 123.

INTERNATIONAL LIFE.

A year-book, of a similar character, *L'Annuaire de la Vie Internationale*, has also been issued by the Union for some years. The last volume completed (that for 1908-10) is one of over 1500 pages.

Another advance towards uniformity in the expression of common ideas has been achieved by the adoption by China of the Gregorian calendar.

The extension of the use of the metric system, during the year, has also been considerable. The Council of Government of Malta has made it compulsory, the law coming into effect on January 1, 1912. A similar measure will be operative in Bosnia-Herzegovina on September 1, 1912. The Weights and Measures Act of Denmark, which was passed in 1907, and carries out the metric system, came into force April 1, 1912.

In October, 1911, important resolutions were voted at the tenth Conference, held at Paris, of the International Maritime Committee.

The first recommends an international agreement in favor of giving a remedy against vessels in course of whose navigation, death or personal injuries have been caused, the total recovery for any such mishaps not to exceed seven pounds sterling per ton.

The second lays down the principal rules as to when freight is earned, and the responsibility of the owner for the seaworthiness of the vessel.

In January, 1912, the Senate of the United States ratified the Convention of Brussels adopted in 1910 by the general diplomatic Conference on Maritime Law, representing twenty-five powers. It provides for salvage of life when accompanied by salvage of property.

The bill to carry into effect the Declaration of London in regard to the principles governing the disposition of Prize Cases was, in December, 1911, carried in the House of Commons, but defeated in the House of Lords.

The measure can hardly come up again in Parliament before 1913. The objections urged were largely that the proposed plan for an International Prize Court was unfair to Great Britain. It secured to her no greater representation on the court than might be accorded to the most insignificant power, and permitted an appeal from the final orders of the Privy Council, while giving none from a judgment of the Supreme Court of the United States.

The adhesion by the United States to the International Convention of 1906, framed at a diplomatic conference of twenty-eight powers at Berlin, for the regulation of wireless telegraphy, enabled us to send delegates to the Conference of London, on this subject, which met in June, 1912, at London.

In the coming Fall it is understood that a further diplomatic conference is to be called by Germany, to meet at some place in that empire, to consider the promotion of the safety of passengers on sea-going ships. In the judgment rendered in July, 1912, by the British Board of Trade Court, in the matter of the Titanic disaster, such a conference was recommended, to agree on a common rule for the subdivision of ships, and as to life-saving apparatus, wireless regulations, speed in the ice regions, and the use of searchlights.

France instituted, in February, 1912, a Commission, attached to the Treasury Department, to examine into the merits of foreign securities, which it is proposed to place on the French market, and to report to the Council of Ministers.

The second International Congress for the purpose of framing aviation laws met at Paris in May, 1912, and agreed on a num-

ber of recommendations. Among them was the requirement of keeping a log-book on each air ship voyage of any length, and in the event of a death or birth occurring on board, the entry of the fact, and prompt notice of it to the authorities of the place where the first descent thereafter is made.

The first Congress of the Permanent International Commission of Aeronautics is to meet at Turin on October 25, 1912. Germany continues to hold the lead in the practical development of the art. The empire contains over seventy local associations formed for its cultivation, and the great Zeppelin air ship, the Schwaben, successfully completed, on October 8, 1911, its one hundredth commercial voyage with passengers. On the last she carried twelve.

An important protest was issued, during the year, by prominent English jurists, against the attack by Italy on Tripoli. It charges Italy with a violation of her duties under Articles 2 and 8 of the Hague Arbitration Convention of 1899, and declares that her action is not in accord with a just regard for national good faith. Among the signers of this paper are Sir John Macdonell and Professor Westlake.

EXTRA-TERRITORIAL COURTS.

The present government of Turkey has renewed an old controversy * with the United States as to the actual terms of the treaty of 1830, between the two powers. It was executed in French and Turkish, and in the French column important provisions appear, which, it is claimed, and apparently with some reason, are not in the Turkish column. The question raised is as to the extent of the extra-territorial powers of our ministers and consuls; Turkey claiming that their jurisdiction is no greater than that conceded to other countries generally. She seems disposed to use it as a factor in negotiations as to railroad concessions with Americans; asking us, if these are approved, to abandon our disputed pretensions.†

* Moore, Int. Law Digest, II, 668.

† The matter is discussed from the Turkish standpoint in the *Blätter für Vergleichende Rechtswissenschaft*, etc., for December, 1911.

It is understood that the new government of China is feeling its way towards essential modifications of the right of extra-territoriality under her existing treaties.

GOVERNMENTAL TRUSTS AND COMBINATIONS.

It is interesting to compare the work of the great trusts in this country, in controlling productions and prices, with that of foreign governments acting on somewhat similar lines. A proceeding brought recently by the United States in New York, to break up a coffee monopoly, was stopped by official representations from Brazil to the effect that the "Corner" complained of was being supported by public funds.

A still more striking instance is furnished by the International Sugar Conference, to which the main sugar producing countries of Europe are parties. By a five years' agreement known as the Brussels Convention, they limited the production for export of the high contracting parties. Russia, under this, cannot export more than 200,000 tons of sugar westward in any year. At the meeting of the Conference, held at Brussels in January, 1912, she requested the enlargement of the amount to 500,000 tons. Germany objected, but England favored it, her ministry having announced in Parliament that she would, were the Russian request not granted, denounce the Convention at the earliest moment possible, which would be in September, 1913. The President of the Board of Trade of the British Government informed the House of Commons, on August 1, 1912, that in view of the action taken by the Conference this step would now be taken. Eight of the signatory powers, prior to April 1, 1912, had adhered to a protocol extending the term of the Convention until 1918, as between themselves.

The English Board of Trade, in 1911, recommended that competing railroad lines be allowed to consolidate, stating that they accepted the growth of co-operation and the more complete elimination of competition as an inevitable process. This was in line with a parliamentary report made the year before by a Vice-Regal Commission on Irish railroads, in which legislation was advised,

compelling a consolidation of those of them which came in competition with each other.

PROGRESS IN EDUCATIONAL METHODS.

The City of Dusseldorf opened, in October, 1911, a school or college for the instruction of municipal officials or those who hope to become such. The course occupies two semesters, only. Certificates of completing it will only be given to graduates of a gymnasium, or high school, or one who has passed some examination implying equal attainments, as for instance that for military official rank. City officials and others may be admitted as students on special application, with examination, or proof of previous study in other directions.

This year, for the first time, Spain admits women to all her universities, and permits them to adopt law or medicine as a profession.

Japan is now, like Germany, debating the question of introducing the jury system.

The issue of a monthly Bibliography of Legal Science, in the English language, has been commenced. It is founded on the German Journal of the International Institute for the Bibliography of Jurisprudence, to which reference was made in the address of the Director given last year, and includes English and American publications since January 1, 1911.

ENGLISH HUMANITARIAN LEGISLATION.

The humanitarian spirit, attributable of late years to English legislation, has found strong expression during the year in two of the Acts of Parliament mentioned in our Bulletin: That as to insurance of wage-earners against sickness or want of employment, and that to carry out the conclusions of the Maritime Conference of Brussels, held in 1910.

To make it, as does the latter, a misdemeanor for the master of a ship not, wherever it is practicable, to render help to one in danger of being lost at sea, even though he be a public enemy, goes far in the direction of universal brotherhood.

The Compulsory Insurance Act seems likely to break down, from the refusal of the physicians to co-operate in giving it practical effect. They see in it destruction to their practice among the poor; except for those engaged by the government for the purpose, and for them less than a reasonable compensation. More than two-thirds of the physicians in England individually pledged themselves not to accept service under the act,* and afterwards, at a special meeting of the British Medical Association, held in July, 1912, similar action was taken. The Chancellor of the Exchequer had offered to pay each of the physicians whom the government might select six shillings a year for each person insured in the territory where he might be called upon to give treatment. Those representing the Association at first asked for ten shillings and sixpence, but subsequently offered to take two shillings less than that. The government refused to close with this proposition, and it was at this stage that the bargaining was broken off.

The practical working of the Criminal Appeal Act in England shows that it conceded too much to the doctrine that one should not be put twice in jeopardy for the same offence. In September, 1911, the first capital case, which called for a reversal, came up in the Court of Criminal Appeal. The court was compelled, by the terms of the act, to discharge the convict, but observed that their experience showed that it was greatly to be regretted that they had no power to order a new trial.

COMPULSORY VOTING.

Provisions for compulsory voting at public elections have now been in force for a number of years in several European governments. These include Belgium, certain provinces of Austro-Hungary (including both Upper Austria and Lower Austria) and five cantons of Switzerland (including Schaffhausen and Zurich).

* See the figures given in the May number of the *American Political Science Review*, 233.

The time during which the experiment has been on trial in Belgium, now nearly twenty years, seems sufficient to indicate quite clearly its natural effect, and his Excellency, E. Havenith, the Minister of that kingdom to this country, has kindly furnished me with valuable information concerning its practical working. No constitutional provision on this subject now exists in any American state, so far as I am aware, but voting was for twelve years obligatory in Georgia under her Constitution of 1777, Article XII of which read thus: "Every person absenting himself from an election, and shall neglect to give in his or their ballot at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery, and also the appropriation thereof, to be pointed out and directed by act of the legislature: Provided, nevertheless, That a reasonable excuse shall be admitted." Georgia was then sparsely settled, and the measure was manifestly ill-adapted to her social conditions.

The revised Constitution of 1893, which introduced it into Belgium, was made for a thickly settled country, where each man could cast his vote near his home. It provided that "The vote is obligatory, and is to be given in the commune, subject to the exceptions determined by law."

This was pressed as a conservative measure or policy, as well as one consonant with the true standards of public duty. Voting, it was argued, was, in principle, as fully a public obligation as service on a jury, or as a guardian. Every elector also was a representative of women and minors. He owed it to them to vote.

The Constitution laid down the new rule for elections to the legislature only. It was soon made applicable to those for members of municipal and provincial councils.

In 1893 suffrage was widely extended. The number of voters registered in the whole kingdom had been less than 140,000. It now became nearly ten times that.

Prior to 1893 the elector did not vote in his local commune, but in the chief place of the "Arrondissement," which comprehended many communes. The various political parties had been accustomed to offer free transportation to the polls, and often

added compensation to the voters for their loss of time, and gave them a supply of refreshments. The new laws, to carry out the revised Constitution, prohibited anything of this sort.

The penalties for failure to vote are small fines only. Even if they are not paid, the elector cannot be imprisoned until he has worked them out.

If he fails to vote, he can present his excuses to a justice of the peace, who will then confer with the commissary of police or burgomaster, and should they agree that sufficient cause has been shown, no further proceedings are to be taken.

If a registered elector removes from his commune between the completion of the registration and the date of election, he is furnished by the government with railroad transportation to his former home and back, free, should he return to vote.

The total registration for the last election held before the Constitution was revised, namely the election of 1892, comprehended 136,775 names, and 114,236 of those registered voted. Sixteen per cent, therefore, failed to vote.

The revised Constitution brought in the plural vote. Property owners, college graduates, office-holders, and those pursuing certain callings, implying more than ordinary education, received the privilege of casting an additional vote; no one, however, to be allowed more than three.

The registration in 1894 (excluding certain arrondissements from which the statistics could not be accurately ascertained) showed 1,169,142 electors, who were entitled to cast 1,801,638 votes. In fact 1,707,604 were cast. The proportion of votes not cast to those cast fell, therefore, from sixteen per cent to about five and a quarter per cent. This proportion has, on the average, been substantially lessened in the subsequent elections. In 1908 it was about five per cent; in 1910 about four and a half.

This great reduction in the number of votes uncast is undoubtedly due in part to the greater convenience of voting in one's own commune. These are very numerous—2629 in all. If any contains less than one hundred inhabitants (and there are only four such in the kingdom), the voting is done in a neighboring commune.

The plural vote also naturally tends to call out those possessing it. They must feel their importance. The more power one can exert, the more likely he is to avail himself of it. The party to which they belong will be apt also to remind them of their opportunity. No one with a hundred or a thousand votes would fail to utilize them. The possessor of three or four (and in Belgium four are allowed for communal purposes) will be, in a degree, actuated by similar considerations. The plural voter will, therefore, seldom be found among those who do not appear at the election.

But, after making all allowances for these causes of difference, it remains quite certain that the sense of legal obligation quickened by the prospect of a fine is the main reason why the proportion of those not voting to those voting has been reduced by nearly three-fourths.

In connection with this I may refer, as I close, to the latest statistics available, in regard to the proportion of the electors in the various states of our own country who fail to vote.

The figures for 1906, as reported in the daily press, are these:

The total number of registered voters in all the states of the union and the then existing continental territories was a little over twenty-two millions; those actually voting at the elections of that year numbered somewhat over fourteen millions. About one-third, therefore, of those registered as entitled to vote, failed to appear at the polls.

These statistics I have not verified, but it may fairly be assumed, for I have not seen them challenged, that they are approximately correct. If so, the United States are certainly in one very important particular far behind Belgium in the practical development of the sentiment of responsibility on the part of the people for due exercise of the elective franchise.

PROCEEDINGS
OF THE
TWELFTH ANNUAL MEETING
OF THE
ASSOCIATION OF AMERICAN LAW SCHOOLS
HELD AT
MILWAUKEE, WISCONSIN
August 26 and 27, 1912.

OFFICERS OF THE ASSOCIATION
1912-1913

HENRY M. BATES, *President*,
University of Michigan Law School.
WALTER W. COOK, *Secretary-Treasurer*,
University of Chicago Law School, Chicago, Illinois.

Executive Committee.

THE PRESIDENT, *Ex-Officio*.
THE SECRETARY-TREASURER, *Ex-Officio*.

ROSCOE POUND,
Harvard Law School.

WILLIAM DRAPER LEWIS,
University of Penna. Law School.

D. O. MCGOVNEY,
Tulane University Law School.

Milwaukee, Wis., August 26-27, 1912.

The twelfth annual meeting of the Association was called to order in Walker Hall, Auditorium Annex, at 8 P. M., by the President, Roscoe Pound.

The roll of membership of the Association was called and showed the following schools represented by the delegates named:

Cincinnati Law School: W. P. Rogers.

Columbia University School of Law: F. M. Burdick, Harlan F. Stone and Charles Thaddeus Terry.

George Washington University, Department of Law: H. C. Jones and M. L. Ferson.

Harvard University Law School: Samuel Williston and Roscoe Pound.

Indiana University School of Law: Charles M. Hepburn.

Northwestern University School of Law: Henry Schofield, Albert M. Kales, Albert Kocourek, F. B. Crossley and George P. Costigan, Jr.

Ohio State University, College of Law: William D. Cockrell.

Pittsburgh Law School: William S. Moorhead and A. M. Thompson.

St. Louis Law School: William S. Curtis.

State University of Iowa, College of Law: Barry Gilbert and H. C. Horack.

Syracuse University, College of Law: James B. Brooks.

Tulane University, Department of Law: D. O. McGovney, William O. Hart and E. J. Northrup.

University of Chicago Law School: James Parker Hall and W. W. Cook.

University of Colorado School of Law: John B. Fleming.

University of Denver Law School: Hugh McLean.

University of Illinois College of Law: Oliver A. Harker, Frederick Green, William G. Hale and E. H. Decker.

University of Kansas School of Law: Charles W. Smith and William E. Higgins.

University of Michigan, Department of Law: Edwin C. Goddard and H. M. Bates.

University of Minnesota, College of Law: James Paige, W. R. Bennett, E. S. Thurston and W. R. Vance.

University of Missouri, School of Law: E. W. Hinton, James P. McBaine and M. O. Hudson.

University of Nebraska, College of Law: E. B. Conant and Wm. G. Hastings.

University of North Dakota, College of Law: R. W. Cooley and H. A. Bronson.

University of Pennsylvania Law School: William Draper Lewis, R. J. Baker, Roland C. Heisler and Harry Shapiro.

University of Southern California, College of Law: Frank M. Porter.

University of Wisconsin Law School: E. A. Gilmore, E. G. Lorenzen, E. R. James, John B. Sanborn and H. S. Richards.

Washburn College, School of Law: J. G. Slonecker.

Western Reserve University, Franklin T. Backus Law School: Walter G. Dunmore.

Yale University Law School: Simeon E. Baldwin and Henry Wade Rogers.

The President then delivered the Annual Address which was entitled "Taught Law."

(The address follows these minutes, page 975.)

Professor Cook then delivered his address.

(The address follows these minutes, page 997.)

The President:

I call upon Professor Schofield of Northwestern University to open the discussion.

Henry Schofield, of Northwestern University Law School:

Is it true, as Mr. Cook says, that American Law Schools are following "the belated and reactionary course of procedure of acknowledging the existence of equity as a system distinct from law"—meaning by "a system distinct from law," as I understand the phrase, a body of rival, clashing law, as distinguished from a body of law that forms part and parcel of the whole law of the land viewed as a single, harmonious code? As proof that they are, the fact is cited that they announce in their catalogues either "Equity" or "Equity Jurisdiction" as a subject by itself.

Obviously such an announcement in the catalogue of a law school is not of itself enough to prove that the law school in question acknowledges equity as a system distinct from law.

The idea of equity as a system distinct from law is, and always has been, of course, a wrong idea, not in accord with the facts of the actual administration of justice by the courts. I am not aware that the idea ever was taught in any American Law School, but if it ever was, the idea was exploded long ago inside American Law Schools.

To tell what American Law Schools now are doing along the line of this idea, we must look at the contents of the course on Equity or Equity Jurisdiction as disclosed in the case-books commonly used.

What part of the law is commonly included in the course on Equity or Equity Jurisdiction in our law schools?

The historical line of division between "law" and "equity" is declared and preserved by Section 16 of the Federal Judiciary Act of 1789, re-enacted in the Revised Statutes and in the recent Federal Judicial Code. The section declares: "Suits in equity shall not be sustained . . . in any case where a plain, adequate and complete remedy may be had at law."

The line of division deals with remedies only, not with subject-matter, nor with the courts that administer remedies.

Speaking broadly, the remedy at law, except in actions for the possession and title to land, is compensation for the wrong done, *i. e.*, money damages. The remedy in equity is compulsion and coercion of the wrong-doer to do or refrain from doing what the law commands him to do or not to do.

A skilful, able and honorable judicial manipulation of the remedy of compulsion and coercion through a long course of years has produced three kinds of law: Pure substantive law, like the law of trusts and mortgages; pure procedural law, regulating the administration of the remedy, like the law that a party cannot have the remedy unless his hands are clean; and what may be called twilight-zone law, that nobody is able to classify as substantive law or procedural law, that is partly one and partly the other, is probably on the way to becoming substantive law in the law of torts, property and contracts, but has not arrived at its final destination.

The remedy of damages and the remedy of compulsion and

coercion are not concurrent remedies, and never were. Aggrieved parties cannot have the one or the other according to their taste and choice. Sometimes the remedy of compulsion and coercion is the only one available, as in cases of trust and mortgage. In cases of torts and breaches of contracts, aggrieved parties always may get the remedy of damages, but cannot always get the remedy of compulsion and coercion to do or not to do what the law commands.

The course on Equity or Equity Jurisdiction includes the body of rules enforced by the courts regulating the application, operation and effect of the remedy of compulsion and coercion to redress torts and breaches of contracts.

Plainly, the inclusion of this body of rules under Equity or Equity Jurisdiction as a subject by itself is not "acknowledging the existence of equity as a system distinct from law."

And plainly, it is not "unscientific" either "from the point of view of analysis" or "from that of educational expediency" to include this body of law under Equity or Equity Jurisdiction as a subject by itself.

The division of all law in general for purposes of exposition into substantive law and procedural law is not unscientific. And, therefore, the division of the law of torts and the law of contracts into substantive law and procedural law cannot be unscientific. The rules enforced by the courts regulating the application, operation and effect of the remedy of compulsion and coercion to redress torts and breaches of contracts, constitute a body of procedural law. The course on Equity or Equity Jurisdiction separates these rules from the substantive law of torts and of contracts for purposes of expositions, in much the same way that the course on Damages separates the rules regulating the measure of compensation for torts and breaches of contracts from the rest of the law of torts and of contracts.

The title of the course, "Equity" or "Equity Jurisdiction," may be translated out so as to read, "The remedy of compulsion and coercion as applied to torts and breaches of contracts." The word "jurisdiction," in Equity Jurisdiction, denotes, not power to hear and decide a case, but power to administer the particular

remedy of compulsion and coercion; and the word "equity" points to the source of the rules regulating the application, operation and effect of the remedy in the higher principles of conscience and morals, *i. e.*, the conscience that is *civilis et politica*, not *naturalis et interna*, as Nottingham said.

While the major part of the body of law included in the course on Equity or Equity Jurisdiction is procedural law, yet the course also includes a body of law that I have called twilight-zone law, neither procedural nor substantive, some of which perhaps ought to be classified as substantive law as a matter of doctrine as distinguished from exposition. Subjects governed by rules of this twilight-zone law are emphasized by Mr. Cook. The chief of these subjects are : Equitable waste, restrictive covenants running with the land in equity, the doctrine that the buyer is the owner in equity from the time of the making of the contract, the doctrine of the essential stipulations of a contract in equity, specific performance by and against assignees, reformation and rescission of contracts, and some others mentioned, to which may be added the equitable doctrine of part performance.

To place these subjects in their proper setting, as it is said, the proposal is to eliminate the course called Equity or Equity Jurisdiction, throwing some of it into a new course to be called "The assignment, performance and discharge of contracts at Law and in Equity," some of it into another new course to be called "The history of the courts of Common Law and Equity, their jurisdiction and modes of procedure," and distributing the rest of it through the courses now called Torts, Property and Contracts.

In a scientific, orderly arrangement of the whole law, taking as a basis of classification the difference between substantive law and procedural law, it may be that many or all of these isolated subjects mentioned would fall under the head of substantive law, and hence under one or another of the present courses called Torts, Property and Contracts, rather than under the present course called Equity or Equity Jurisdiction. But the proposal is not to take these subjects out of Equity or Equity Jurisdiction

and place them in their appropriate places in the courses on Torts, Property and Contracts, but to place some of them in their appropriate places in those courses, putting the rest into two new courses.

In point of scientific or orderly arrangement, for teaching purposes it is hard to see just wherein or why and on what basis of analysis and classification the proposed plan excels the present one.

It is said the proposed plan excels the present plan in point of "educational expediency." No test of educational expediency is laid down. But educational expediency must have reference to students in American Law Schools today who are studying law at its source in the decisions of the courts and not in text-books.

One way, therefore, to test the matter of "educational expediency" would appear to be: Inquire whether the body of law included in the course on Equity or Equity Jurisdiction is actually administered by the courts as a part of the substantive law of Torts, Property and Contracts, or as law regulating the application, operation and effect of the remedy of compulsion and coercion as distinguished from the remedy of damages to redress torts and breaches of contracts.

Let us first look at the English courts to see how they are actually administering the body of law included in our course on Equity or Equity Jurisdiction.

Since the English Judicature Act of 1875 the two remedies of compulsion and coercion and of damages have been administered by a single court under one form of action. This has produced no great change in the way justice is administered under the body of law included in our course on Equity or Equity Jurisdiction. Almost all of the rules are still applied and enforced as they always were by the English courts, with special reference to their origin in equity, or in the law regulating the application, operation and effect of the remedy of compulsion and coercion.

In his lectures on Equity, Maitland predicted in his second lecture that one effect of the English Judicature Act of 1875 would be that "the day will come when lawyers will cease to inquire whether a given rule be a rule of equity or a rule of

common law : suffice that it is a well-established rule administered by the High Court of Justice." This day was to arrive, Maitland thought, through the operation of Sub-section 11 of Section 25 of the Judicature Act of 1875, which says: "Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail." In his twelfth lecture Maitland says this eleventh sub-section of Section 25 "has been law these 30 years, and has produced very little fruit," of the kind Maitland predicted in his second lecture. The fruit Maitland predicted was what is commonly called a "fusion" of law and equity, or an obliteration of equity, or, as Maitland put it, a judicial administration of rules of equity without reference to their origin in equity.

The effect of the English Judicature Act of 1875 has been to reveal or unveil to everybody in England the true nature of the rules of equity included in our course on Equity or Equity Jurisdiction as rules regulating the application, operation and effect of the remedy of compulsion and coercion as distinguished from the remedy of damages. The isolated subjects of what I have called twilight-zone law in our course on Equity or Equity Jurisdiction, where fusion in Maitland's sense might be expected, are taken up by him in his twelfth lecture, and English decided cases are examined, producing very little fruit as he says. Mr. Hogg, an English barrister, writing in 12 Juridical Review, 244, in 1910, under the title "Law and Equity—the test of fusion," says he can find but one case which he thinks answers to Maitland's test of fusion, *i. e.*, where justice is administered by the courts without specific reference to any distinction between law and equity. The case cited by Mr. Hogg is not very much in point, the author seemingly overlooking the difference between construction and reformation; and Mr. Ingersoll, in an article to which I shall refer, appears to take that view of it.

When it is borne in mind that the distinction between law and equity is the difference between the remedy of compulsion and coercion and the remedy of damages, it is difficult to see how

justice ever can be administered by the courts without reference to any distinction between law and equity, under a right understanding of those words in their technical sense as applied to remedies. Considerations of sound public policy prevent an extension of the remedy of compulsion and coercion to all wrongs, as *e. g.* breaches of contracts for purely personal services, and the remedy is likely to remain for a long time as an exceptional, superior remedy, entailing peculiar consequences, as *e. g.* the consequence that a buyer of real estate may be regarded as the owner for many purposes from the date of the contract, a consequence that cannot be explained by any law regulating the making of contracts separate and apart from the remedy of specific performance.

But when a rule of equity, *i. e.*, a rule regulating the application, operation and effect of the remedy of compulsion and coercion, gets completely disentangled and separated from the remedy, standing as an out and out rule of substantive law, then it is "fused" into the law, and may be administered without reference to its origin in equity, as Maitland puts it. The rules regulating the reformation and rescission of contracts for mistake and fraud, perhaps may be, and perhaps ought to be, administered by the courts of England and of our "Code States" as rules of substantive law governing the subject of mutual assent in contracts, but they are not so administered without reference to their origin in equity, or in the formal mode of procedure for reforming and rescinding contracts.

Now let us turn to the United States.

Mr. Ingersoll, Dean of the Law School of the University of Tennessee, in an article entitled "Confusion of Law and Equity," 21 *Yale Law Journal*, 58, in 1911, says the remedy of compulsion and coercion is administered by a separate court of Chancery in seven of our states, on the equity side of a single court in fourteen of our states and in our federal courts, and that all the rest of our states are so-called "Code States," where, as in England, one court may administer both the remedy of compulsion and coercion and the remedy of damages under one form of action as the nature of the case and the ends of justice may require.

But nowhere in the United States, according to Mr. Ingersoll, has there been anything like a "fusion" of law and equity under Maitland's test of fusion, or any other test of fusion that may be applied.

Everywhere, then, throughout England and the United States, the rules of law included in our course on Equity or Equity Jurisdiction are administered by the courts as they always were, *i. e.*, as rules regulating the application, operation and effect of the remedy of compulsion and coercion, or with special emphasis on their origin in equity.

Under this test of the way justice is actually administered by the courts, then, it cannot be said that our course in Equity or Equity Jurisdiction is educationally inexpedient.

There can be no question whatever, as Maitland says, that the modifications of the law of contract brought about by constant applications of the remedy of compulsion and coercion to redress breaches of contracts, should be studied and learned as a part of the law of contract. It is very hard indeed to see how a student in our course on Equity or Equity Jurisdiction can forget that there is a contract or a tort at the bottom of the case in hand; or how he can forget that specific performance has relation to contracts, as Sir George Jessel said, coals have relation to a colliery.

Our present course on Equity or Equity Jurisdiction rests on the analysis of Langdell, who grasped and emphasized the key to the subject in the remedy of compulsion and coercion, just as Oliver Ellsworth grasped and emphasized it in the Federal Judiciary Act of 1789. Mr. Cook's paper, as it seems to me, with due respect, unduly magnifies the importance of a few sentences in Maitland's lectures on Equity about the fusion of law and equity. Maitland's lectures, rightly read and interpreted, are the sermons of an English Paul spreading the gospel of the American Langdell. His lectures were not prepared for publication, and he was great or brilliant as a legal historian rather than as a lawyer or analytical jurist; whereas, Langdell was great as a lawyer with a power of analysis equal to Austin's.

The suggestion of more attention to the history of the courts

of common law and equity, their relations, their modes of procedure, and their place in the government, is a good one. A realization and appreciation of the way the remedy of compulsion and coercion was used to bring the law into harmony with society, as Maine said, is essential. The remedy may be used by the courts legitimately for the same purpose today, consistently with our indispensable and just rule of precedent and the constitutional prerogatives of the legislature. And there is no reason whatever why the remedy of damages may not be used as an equally potent agency for the same purpose. The chief value of the English Judicature Act of 1875 and of American Codes, allowing the two remedies to be administered by a single court under one form of action, is that it puts the two remedies on an equal footing, giving the remedy of damages a fresh start, so to speak, giving lawyers and judges more freedom to fuse the liberal and daring but consistent and coherent spirit of *Acquitas* into the administration of the remedy of damages, exploring and expanding the fountains of the law in the best feelings, manners, customs and traditions of the people, and giving less attention to the rivulets. Whether English and American lawyers and judges have risen to the opportunity created for them by the legislature is outside our subject. But I repeat, American Law Schools are not belated and reactionary in their classification and mode of teaching and emphasizing the body of law administered by the courts under the name of equity, and I can not see wherein or why the proposed changes are a real and substantial improvement.

The President:

The discussion is now open to any one who has any suggestion to make.

Samuel Williston of Harvard University Law School:

It may be true, gentlemen, that in a theoretical classification of the law there ought to be a place for everything, one place for everything, and only one place, so that each subject would contain everything that belonged to it and nothing that belonged to any other subject; but even if it is possible to make such a classification theoretically it seems to me it cannot be the basis of a

division of subjects to be taught in the law schools. There the division must rest upon practical considerations. Take the subject of bills and notes, for instance. A very large part of that subject concerns equitable defences to bills and notes. These equitable defences in the main involve the same equitable principles that are applicable to various other kinds of property besides bills and notes, and yet I believe that it would be a mistake as a practical matter to deal with those questions except in a course on bills and notes. It is very interesting to compare such defenses to bills and notes with corresponding doctrines where other kinds of property are involved, but as a question of practical instruction a course on bills and notes must deal with equitable defenses to them.

No teacher in dealing with any subject can avoid constant reference to other subjects. One of the difficulties in teaching first-year students is that they are unable satisfactorily to grasp the numerous references that the instructor wishes to make to other subjects. It is an embarrassment undoubtedly in teaching the law of contracts to first-year students that they are pretty ignorant of the law as a whole. This is an inevitable consequence of the fact that first-year students are beginners, and we have to do the best we can. As they proceed and get into the second year we can more readily and effectively make comparisons. A teacher of equity in dealing with specific performance of contracts will, as the preceding speaker says, inevitably make the assumption that he is dealing with the same subject of contracts which was taught in the preceding year in another course. I do not think that it is wholly a mistake to repeat sometimes, to cover the same ground from a different starting point and to look at it from a different aspect. The extent to which this must be done depends on practical considerations, how far does a student gain enough from the expenditure of time to make it worth while. I do not believe that question can be answered in any other way.

The main principle, I believe, which must guide us in dividing the subjects in the law school, depends upon what has been the division of the law in the past, how have the cases grown up.

The preceding speaker referred to the law as at present administered by courts of equity in England at the present day since the passage of the Judicature Acts, but still more important than the way the law is looked at today by the courts is the way the law has grown up. I believe the beginner in the law must tread in the steps of the race; he must follow the paths that his forefathers have trod. That is, not necessarily to live in the past or to end where his forefathers did. On the contrary, I believe that he will get ahead more surely and find better where the world is at present and where is the best starting point by going forward along the lines that the law originally laid down.

Nothing is more interesting for an expert in the law, and with advanced students nothing is more profitable than to make comparisons by what may be called cross sections of different subjects, taken to show how the same doctrine is applicable in a connection not ordinarily associated with it in the law books, but I do not believe that is the way to make courses or to lay out a law-school curriculum.

The President:

I should like to suggest, if I may, in connection with our treading in the footsteps of the law, that that was precisely the argument made in 1870, to show that there was no such thing as a law of torts. The law had grown up in actions of trespass *vi et armis*, trespass *quare clausum*, trespass *de bonis* and the like, and in actions of trespass on the case for conversion, slander, libel, malicious prosecution, etc. Ergo, it ought to be taught in that way. I still hope that the time will come when we shall have a system of the common law; and, while the historian will tread in the steps of our fathers, the student may tread in the steps of the system of law. I am not entirely disposed to agree with Mr. Schofield that we ought to recognize, in our teaching of the law, law and equity as separate divisions. Beginning with teaching, and ending with decisions of the court, we approach the subject too much in the spirit of two clashing jurisdictions and not in the spirit of one jurisdiction. I cannot help thinking that the law of the present and the law of the future is going to

be the law. I cannot think that it is right in the present time to go on in the spirit of the time when there were two courts, one of which was more or less competing with the jurisdiction of the other.

Henry Schofield of Northwestern University Law School:

I would say that if they are recognized as clashing systems I think I made myself clear that that is a mistake.

The President:

I did not mean to question your statement that that is a mistake. I meant that that mistake is made continually, even if it has been exploded, and it has remarkable vitality yet.

William Draper Lewis of the University of Pennsylvania Law School:

As a person who has taught equity for some time, certain things have puzzled me. For instance, one is why we spend so much time in teaching equity in constantly repeating, in one subject after another—as, for example, in specific performance, and then again in torts—the fundamental principles of when equity takes jurisdiction. I think that we shall always be obliged to have a course on the concurrent jurisdiction of equity, but I do think that we are making quite a good deal of a mistake in teaching first the law of torts and then the equity jurisdiction over the different torts.

There is another portion of the subject of equity that has always bothered me. Mention has been made of covenants running with the land in equity. I have taught that in connection with the specific performance of contracts. I do not think it has any connection with that subject. It belongs to real property. But the person who teaches real estate in the school with which I am connected would never take it; and somebody had to teach it.

Unfortunately I was the dean, and I could not get rid of it. The same thing has been true of other portions of what we call equity. Take the reformation of contracts. There is no reason why that should be taught in connection with equity jurisdiction.

There is one suggestion made by Mr. Cook which, in the University of Pennsylvania, we have taken the first step to carry out, and that is this: We have established in the last two years a course on what we call civil procedure, a description of courts and of the different steps in a law suit. The man who has that course has promised to incorporate in it ultimately the subject of concurrent jurisdiction in equity; so that in a course in civil procedure running over at least two years, and perhaps ultimately through the three years, a student will have presented to his mind as a procedural problem what every lawyer in practice has presented to his mind, namely, should I proceed in law or in equity in a particular case. Now if we can get procedure, as such, scientifically taught, I do think that we can take up the different substantive subjects of equity and in time have them distributed, if not entirely, to a very large extent along the lines which Mr. Cook has indicated.

Albert M. Kales of Northwestern University Law School:

Professor Langdell had an interesting way of securing the acceptance of his ideas by his colleagues. When he had decided that a particular course was the proper one to take he spent very little time trying to persuade anybody to undertake it. He went and did it himself. Having done it himself—having taught with the case-book which he constructed—the question was: Could he beat out the teachers who used text-books? He did, and that was the foundation for his success and the success of his method. Having himself succeeded, naturally others came to his assistance, and the result was a triumphant one.

The same may be said of any revolutionary suggestions that have been made by other gentlemen before this Association in other years, and also Mr. Cook. The question is: Will his cock fight? Before we can know that, we have got to have him in the ring. So it seems to me that we ought to encourage Mr. Cook in every possible way. Instead of throwing cold water on his scheme or telling him that it ought not to be promoted or that it cannot be done, we ought to join together and urge him in every way possible to reorganize (in partial effect at least, because he cannot go over the whole field) some course, as he has

suggested, and persuade his faculty to permit him to undertake an experiment along the lines which he sincerely believes in. When that is done and when such a course has been used, and when, perhaps, others besides himself have attempted to use it, we shall know whether his cock can fight or not. That will be the test. If it can, our prognostications for the future and our questions as to whether we should cling to the past will all be solved. I for one most heartily join in every possible encouragement to Mr. Cook to proceed with his experiment and to solve the problem practically by an outline of cases, or better yet, a case-book which represents his own views.

William O. Hart, special representative of Tulane University Department of Law, submitted the request of the President of the Commercial Law League of America, an organization of about 2700 lawyers, for the appointment of a committee from the Association to confer with a similar committee from the League for furtherance of the study of commercial law as such in the law schools of the United States.

Charles Friend, of Milwaukee, a member of the Commercial Law League of America advocated the study of commercial law in law schools, and urged instructions to advise students to qualify for the practice of that branch of jurisprudence. He referred to a nation-wide demand that law students apply their faculties to the economic necessities of the country.

The President:

If I hear no objection, the suggestion which has been made by Mr. Hart, of New Orleans, will be referred to the Executive Committee. It is so ordered.

Dean Hall has moved that a Nominating Committee and also an Auditing Committee be appointed to report at the next meeting.

The motion is carried.

I will appoint as members of the Nominating Committee: Dean Hall, Dean Hinton and Dean Richards. I will appoint as the Auditing Committee the following gentlemen: Judge Harker, Professor Curtis and Professor Cooley.

Adjourned to Tuesday, August 27, at 3 P. M.

SECOND SESSION.

Tuesday, August 27, 1912, 3 P. M.

The President:

The Association will please come to order. We will have the pleasure this afternoon of listening to an address by Dean William G. Hastings, of the University of Nebraska College of Law, on "Moot and Practice Courts."

Dean Hastings then delivered his address.

(The address follows these minutes, page 1010.)

The President:

The discussion of Dean Hastings' paper will be opened by Dean Hinton of the University of Missouri Law School.

Edward W. Hinton of the University of Missouri Law School.

I believe most of us will heartily agree with Dean Hastings that the law schools have neglected the subject of practice. Perhaps that was inevitable in the beginning, partly due to the idea that the law school was not adapted to the teaching of procedure and partly due to the fact that the law schools were occupied in organizing their forces on substantive law. For the most part they have continued to neglect procedure, and that may possibly be explained by the fact that it is thought that procedure is becoming an obsolete subject; that when we get done reforming it, and the ideal simplification of it, there will be nothing left to teach. Personally I do not believe that we will arrive at that condition for some years to come. So long as we have the common law jury we will have some difficulty in working with that jury, and we will have need for more or less law of procedure, and the successful practitioner must understand that branch of the law. I think it might be said that the very general neglect of procedure in the law school is one of the causes that have led to the unsatisfactory condition of our practice at this time. We have turned out a generation of lawyers splendidly equipped in substantive law, but with little training in procedure. They have been left to pick up their procedure haphazard, and they seem to have done it rather badly. So that I

believe we will all agree that the teaching of procedure is a very live question, and one in which the law schools should be vitally interested. Dean Hastings has certainly made a very strong statement of the value of the practice court, and its value can hardly be over-estimated; but I believe that any school or teacher who starts out to teach practice by means of the practice court alone, or even to a very large extent, is doomed to disappointment. In the first place, we cannot devote the necessary time to practice courts to work out any systematic theory and philosophy of practice, or teach it to a man by actual experiment. The time element puts it out of the question. Furthermore, try as we will, we cannot make practice cases come out as we wish; we cannot organize such a court so as to teach the subject as a system or scheme. We can assign cases that will involve this, that or the other topic of substantive law, but whether they will involve any real question of procedure will depend largely on accident unless the instructor directs one side to take certain steps and directs the other side to take certain other steps; and doing that, takes away all initiative from the students; I believe, therefore, that we cannot rely on the practice courts to a very large extent to teach procedure as a scientific branch of the law. I believe the value of the practice court is simply as an aid to a properly worked out course on procedure, to give the students some practical experience in doing the things that they have worked out, just as they work out the problems of substantive law. When some investigator has done for procedure what Professor Thayer and Professor Wigmore have done for evidence, we can properly organize a procedure course, and, as an aid to that, I believe, the practice court will be most effective. In the practice courts the student can get some things that he perhaps cannot get elsewhere. He can get some experience in dealing with the raw material of a case, the tale of woe such as a client brings into the office, which is quite a different thing from the record that we find in the reports. The student can get practical experience in analyzing that tale of woe, in dealing with the raw facts, in making up his mind as to the real facts of the case, and applying the proper legal analysis to what you might call the operative facts. That

experience I know is valuable. The practice court, I believe, will also aid the student in converting pleading from an abstraction into a concrete practical thing. He will become impressed with the necessity not merely of stating *a* cause of action, but of stating *his* cause of action, because in the practice court he will run into difficulties of pleading a situation which his proof does not support. That, I think, is extremely valuable. He will also get valuable practical experience in formulating the charge or instruction to the triers of fact; in seeing the necessity for conforming the questions submitted to the triers of fact to the issues made by the pleadings, and he will pick up much of the mechanics of practice. But I believe that unless we properly organize a course on procedure, unless some law teacher does for procedure what Professor Thayer did for evidence, the work of the practice court and the work of the actual court will continue to be unsatisfactory and that the student and the practitioner will never get from the mere doing of things the broad grasp and comprehension of the subject that must come from his study of it as a scientific system.

Oliver A. Harker of the University of Illinois College of Law:

I desire to say a few words in approval of the position taken by Dean Hastings. We all know that while there are some students that take law courses with no intention of becoming practitioners, but with the idea of broadening their general culture, or of better fitting themselves for some other occupation, yet the vast majority of the students, in fact, nearly all of them, are studying in preparation for the practice of law. The chief duty of the law teacher and the burden of his responsibility, then, is to prepare the student for practice; and I feel that he falls short of full performance if in his instruction and aid to the student he confines himself to the principles which underlie the common law and statutory law, the methods of legal reasoning and the analysis of legal problems, no matter how thorough and efficient may be the instruction. In other words, however broad and thorough the instruction in substantive law, the preparation is not complete unless there is instruction in the law of procedure. That is conceded by every law school that holds mem-

bership in this Association, as is evidenced by the published curriculum of courses. I have heard some law teachers contend that it is not the province of the law school to teach procedure and that it should not undertake it. Yet, every law school announcement shows courses in this branch of instruction. I feel also, so far as this branch is concerned, that the preparation of the student is inadequate if it goes no further than the acquirement of a knowledge of the rules by which procedure is governed and the historical development of procedure. I believe that we are guilty of some such neglect, evidence of which is found in the constant complaint of practitioners that the law schools are turning out graduates wholly deficient in this branch of legal education, young men that are helpless, so to speak, when confronted by the problems arising in actual practice. Of course, you cannot turn out a finished product. It will take years of experience in actual practice to do that. But the law school can furnish such training as will enable a student to make the proper selection of the tools that are appropriate to the matter in hand, and to make intelligent use of them. I think there is no place where this training can be had equal to the moot or practice court, provided the same thought and the same attention is given to it that is given to the major courses in substantive law. The work should be in the hands of a man whose experience has made him familiar with office work and court work, and the rules of procedure; a man who knows not only the tools, but whose experience has made him an expert in their use. He should bring to the work the same thought, the same sense of responsibility, the same preparation that the good up-to-date law teacher brings to courses in substantive law.

May I be pardoned for saying a word with reference to the manner in which the work is conducted in the University of Illinois. Moot court work when the school was first started was not in charge of a professor of the law school. Under an arrangement made by the President of the university judges who were then on the Bench were invited to and did submit cases to be tried on agreed statements of fact. The three Appellate Judges of the Third District of the state were thus called into service,

and one of them would go to the university every week to hear a case tried by students that was then pending in the Appellate Court—a live case. They would settle the pleadings, and, when the issues were formed, would try the case on the agreed statement of fact. The practice of making up cases from live ones still pending yet obtains. I do not think very much can be accomplished by taking imaginary cases, or cases of infrequent occurrence. We have an arrangement whereby the clerks of the Appellate Court of the Second and Third Districts, furnish us with copies of the printed abstracts and the briefs of cases pending. The instructor in charge of our moot court runs through the cases and makes selections from which he frames cases for the students. Of course, that involves a great deal of labor, but he does it. He tries to get cases in which the questions involved are close—where opinions that have been delivered by the Supreme Court and Appellate Court are in seeming conflict, or cases involving questions that are absolutely new in the state, passed upon in other jurisdictions perhaps, but not in the State of Illinois. Of course, the names of the parties and the venue are changed; otherwise the students might obtain copies of the briefs in the actual cases. Then a statement is published in the “Moot Court Bulletin,” a weekly publication of which each student in the law school is entitled to a copy. Two students on each side are assigned as attorneys. They are required under the statement of facts appearing in the bulletin to frame the necessary papers and get to issue. If it be a suit at law, a declaration is filed and that is followed by demurrer or plea on part of the attorneys for the defendant. If it be a suit in chancery, the attorney for the complainant brings in his bill and that is followed by answer or plea. The work is carried on as nearly as possible as it would be in an actual court, and proceedings of the court as far as possible parallel those of the various courts of the state. We have cases in the Probate Court and in the Circuit Court. They may be common law cases, probate cases, chancery cases, or criminal cases. Occasionally we find a case in which there is a sharp conflict in the testimony; witnesses are then produced and the students are called upon to

try that as a jury case. One of the difficulties experienced by us at first was in getting the students to take to the work seriously and with interest. That has been largely overcome by making it a required course, and in having the professor in charge criticize the work of the individual student. All students are required to draft the initial pleading—not merely those students who are engaged in the case, but every student. If intricate questions of defense arise, then all students are required to draft special pleas. All papers are passed to the professor for examination. He makes corrections and calls the attention of the class to the defects in pleading where they appear. We have found the system very successful in stimulating interest on the part of the student. I do not think much can be accomplished by the club court alone. Our faculty feel that well-organized club courts, presided over by a student may be great assistants to the regular moot court.—We are not so embarrassed in the work as are schools who have a large number of students from other states. Ninety per cent of our students, who are preparing for practice at the Bar, are Illinois men. Consequently, we have the advantage of limiting ourselves to Illinois practice. I am decidedly of the opinion that these courts, club courts and the regular moot court conducted in connection with the practice courses of the school can accomplish much good.

I agree with Dean Hinton that to accomplish much you must also have courses in procedure. We have what is known as a course in Illinois Procedure, and with it we are able to do more than if we were limited to the moot court and the club courts alone.

Samuel Williston of Harvard University Law School:

We have occasionally tried at Cambridge to get up rather elaborate trials on statements of fact, where a statement was given out to each of the witnesses in advance. Now it is in the ability to examine witnesses that students are most deficient when they graduate and come to the Bar. If a student is really taught pleading even without a practice court, later in an office when a question of how he should plead arises he has time enough to think over the matter and look up authorities and forms, so that

he is very likely to get his pleadings fairly correct if he has learned his lesson. But in the examination of witnesses he is notably deficient, and it is there that the *diffidentia* of which Judge Hastings spoke becomes most apparent in the court room. Nothing but practice can enable a young man to overcome this diffidence and learn to frame readily admissible questions which will elicit the facts from witnesses. Now it is here that the difficulty with written statements arises. The student who produces a witness does indeed get valuable practice in introducing, without leading questions, the facts set forth in the statement given to the witness, but effective cross-examination by the other side is impossible. The cross-examiner of course does not know the limits of the statement given to the witness, and inevitably asks so many questions which the witness cannot answer that the cross-examination is almost always ineffective and often farcical, as where a witness is asked "Are you married?" or "How old are you?" and answers "I don't know," because his statement did not give him the material for an answer.

I should like to ask gentlemen who have charge of practice courts whether this difficulty of which I speak can be avoided.

W. P. Rogers of the Cincinnati Law School:

All of us who have the responsibility imposed on those who occupy a position of control in a law school have frequently been confronted with the question under discussion. The student when he reaches his third year and realizes that he is now about to put into practice the profession he has been learning, begins to have an appreciation of his deficiencies. So I am glad that we are to have a discussion this afternoon that will give enlightenment to some of us who are yet in the dark concerning what we can best do to aid these young men in beginning practice.

The suggestions that have so far been made leave me still in the dark relating to the kind and amount of work we ought to undertake in practice courts. I think the schools should require that students who are going into the practice should know how to draw all necessary papers and pleadings, should know the meaning of a demurrer, and should know when and how to make necessary motions and amendments. But when we have gone to

the extent of drawing pleadings and preparing cases for trial and appeal, shall we attempt anything further?

Is it possible for the schools to establish practice courts so that the student in going out will be an expert practitioner? So far as our own school is concerned, we have found that is impossible, and we have contented ourselves without undertaking anything more than work of this nature, together with the argument of legal points in the case. We believe the best student in substantive law is the man, after all, who is the best practitioner. He is the man who knows best how to practice when he gets into the work. Besides, the student entering the practice of law has a long period in which he can learn those technical phases of practice which he cannot learn in the law school itself.

I hope some who are here this afternoon and who seem to think that even so much of the practice court as I have indicated, is not necessary, will give us the reason for this view, so that we can give to students who ask us why they shall not have more court practice in their course, a reason which will be satisfactory to them. Is it a sufficient reason to say, that having learned thoroughly the substantive law, they will find themselves better fitted for practice than they think they are?

William E. Higgins of the University of Kansas School of Law:

I should like to give concrete illustrations of practice court work, but Professor Williston has asked a question which I think ought to be answered. When I left the active practice, it was with the profound conviction that the law schools fail when they graduate a young man who goes into court only to have the court say to him on the first occasion of a motion or a demurrer, "Your pleading is fatally defective. You have stated conclusions of law. You have stated no cause of action. We must have the facts." So the young man puts in the facts. Again a motion is made to strike out as faulty, and he is told "You have the facts, but they are evidence." One such said to me, "What shall I do with the facts. What kind of facts do they want?" Now, that kind of experience on the part of this young man has led me to believe that law schools ought to turn their attention

to the matter. We presented to the authorities of our school a plan of practice court, which we have had in vogue for eight years now. From my experience in these courts there are three things which we ought to teach by practice courts: First, where to find the law; and, second, how to find it; and third, how to prepare and present it. Following these there are also three things that a young man should learn as the fundamentals of practice, and, by the way, one does not have to cover the details of practice in the different states either. One can take his own practice and teach it fundamentally after the first or Freshman year. Now, these, in my opinion, are the fundamentals: first, what is a conclusion of law, and how to recognize it; second, what is an ultimate or operative fact, and how to recognize it; third, what is the evidence to sustain such a fact. Briefly, in those three fundamentals is the ideal which we aim to give in the practice courts of our law school. I do not believe in lectures alone, and I do not believe in courts of practice merely as a course either from the textbook, if we should have one, or from the case-book; I do not believe they alone will be successful. You must have adversary proceedings. Now, how are we to get them? A number of years ago I had the pleasure of making a tour of some of the colleges of this country to ascertain how they arrived at concrete problems to be presented in their practice courses. I found that the practice courts were matters of publication in their catalogues and that they did not exist as a fact. Secondly, I found that there were two methods employed in those schools which aimed to give practice courses. The first was the purely moot court idea, where the instructor gave out typewritten statements of the facts. Those were agreed facts. That is what they called them. The second method was to act out a very elaborate proposition after which those in charge selected certain students as witnesses and certain other students as counsel, and these went through the form of a trial. It seemed to be a successful method of presenting the course on practice. There is also a third method—a modification of a method stated by Dean Harker. The record of the testimony in cases in the Supreme Court is obtained from the clerks of the court. There happened to be in my own state, for instance, a practice, until

recently, of requiring a copy of the transcript of the testimony to be made. The original was kept in the Supreme Court and the copy of the transcript was at our service. All the pleadings, orders, etc., were taken out, and just the evidence remained. Under any of these systems, if you want to originate, if you want to give the court case, you must have the concrete evidence. I am getting down to fundamentals now. The fact is that we must have three things that the student must be able to recognize. The conclusions of law, the operative facts and the evidence to sustain each set of operative facts must be taught concretely in connection with the pleadings. Of course, that takes time. If you have the idea drawn from experience that the practice court is a consumer of time at the expense of teaching the substantive law, there is something wrong with the practice court. And let me say that the practice court, in my opinion, should not be placed in the hands of students. It should be under the direction of a member of the faculty who should devote his time to it. Pleadings should be taught along with the practice. By this means you can have a connected course in pleading, and you can thus work out concrete problems in your practice course. You may have either of the two methods of originating evidence. To illustrate one of them: You can take these transcripts of testimony of which I spoke and give to A, for example, the testimony of John Jones and to B the testimony of Thomas Smith, and tell them to get the facts, and then send your student to these other students to quiz them. Of course, you will have your limitations. Very often in a damage suit, for instance, in order to test the recollection of a witness he will be asked a question which was not in the transcript. He might be asked his age, for example. But what difference does that make, he can state his actual age. If he is asked a question that is not in the transcript he can say that it is not in the transcript. The proposition is how to practice and work out your problem of practice, and if you work with the other members of the faculty you can have your problem in agency or on any of these disputed questions that are brought up in classes studying the substantive law. But we do not need any mental gymnastics in our practice courts: first, a

practice court should teach where to look for the law; second, how to look for the law; and, third, how to prepare it for presentation. Then let the court teach the student that a conclusion of the law is to be deduced from a state of facts which we call operative facts, and give him drill in how to recognize such facts and conclusions, and further teach him that the evidence which is given in the practice court trials must be such as to sustain these deductions. Concrete exercises can be given and must be given, I think, or else you will have a situation which confronted me when, acquainted to some extent with the substantive law, I went out into practice from a law school.

I may say, in conclusion, that in our own school we have found it possible for eight years to teach a connected course of practice by giving adversary proceedings in practice courts in connection with the pleading course.

Charles M. Hepburn of Indiana University School of Law:

There is so much with which I concur in the interesting paper that we have just heard, that I hesitate to speak of one thing in which I find it hard to concur. But I was impressed with the emphasis which the paper lays upon the imitative function of a practice court. I wonder whether Dean Hastings would really have us believe that imitation is the chief end of a university practice court—"as if its sole vocation were endless imitation." It seems to me that the practice courts run too much to imitation.

I recognize, of course, the importance of rule of thumb work in a practice court. There ought to be a good deal of it. It is as it should be if a practice court trains the student in the use of the known and ancient forms of expression as contained in approved precedents, until their observance becomes a habit. But why stop with this?

If a practice court encourages merely the copying of current forms, with little or no thought for the scientific basis of pleading, with little or no drill in the fundamentals of pleading as a science, it misses the chief end of a university practice court. I think that a student ought to obtain in his practice court such a drill in the fundamentals of pleading as a science that in any ordinary emergency he will be able at least to get his bearings.

In other words, I think that a practice court should look more to the scientific basis of pleading than to a mere copying of correct forms. I recall an instance in which the graduate of a leading law school, an LL. B. of two or three years standing, came hurriedly into the law library of a court house with the whispered inquiry: "For the Lord's sake tell me what a general denial puts in issue?" He was up against it in the trial of a case, and had no answer ready.

John B. Sanborn of the University of Wisconsin Law School:

The only excuse that I have for getting into this discussion is that we have devoted a great deal of serious consideration to this problem at Wisconsin, and we have come to certain conclusions bearing upon questions which have been raised this afternoon and we are pretty well decided as to those things. We may be wrong about some of those conclusions, but some of them have been raised by the question that has been asked. Professor Williston asked about dealing with witnesses. Now, in my opinion, the attempt to have a mock trial of any kind where you attempt to quiz witnesses is absolute foolishness, because the conditions are so entirely different from those you get in an actual trial. Last year I was asked to preside at a mock trial held by one of the law school fraternities and where one of the counsel was quizzing a witness and the other attorney got up and objected because the answer of the witness was not contained in the agreed statement of facts. Now, when you get into that sort of thing you see how far you are going away from the procedure in an actual trial. When you have a witness who has learned what he has got to say, you have only the situation which resembles an actual trial where you have a perjured witness. That is the situation which exists always when a witness is reciting what he has learned. Another thing which I do not agree with that has been said here is this. That is, that you can make any use of statements found in the record in an Appellate Court. I agree with Dean Hinton on that. But there is a reason which he did not mention. A lawyer who has been in practice knows that the record in the Appellate Court does not state what happened in the lower court at all. If it did he would get into trouble with

the Appellate Court. For instance, the rules of the Appellate Court prohibit your setting out the testimony at length unless a question is reserved on that particular point; they prohibit your setting out the charge at length unless the entire charge is necessary for some question that is reserved. Take the record on appeal. It says an objection was made and the court ruled so and so, and then it goes on to say to which ruling the defendant, or the plaintiff, as the case might be, by his attorney then and there excepted, which exception was duly allowed. Now, the chances are in this part of the country that no such thing ever happened. You simply put in that an exception is taken to every ruling. So I do not see what real use can be made, at least in the jurisdictions in which I have practiced, of requiring that language. I have always tried to get records on appeal which would show what actually occurred in the trial; I have got a few, but most of them do not show that at all. The thing that we try to do is to have a general course in the fundamentals of practice, supplemented by a practice court in which I try to give the students certain things as illustrative of those matters. You cannot cover the thing completely, or you cannot cover the same ground with any two sets of students in different cases unless you tell them what to do, as Dean Hinton says. I give them a statement of facts. I do not say who the parties are, they must determine that; they know who the person is that is consulting them, and they must determine who the plaintiff ought to be and who the defendant ought to be, what the venue is, and how they are going to get into court. I had a student last year who was trying to get that subject through his head and he didn't succeed until the very last month. I thought the best thing I could do was to let him go on and see what he would learn about it. I use the court rules and the statutes of the state, supplemented by a set of rules of our own; but the student must go to the rules and find out what they are for himself. There is another thing which prevents the trying out of an actual case, and that is the time element. Those of you who have been present at the opening of court when the calendar is called know that the judge wants to know how long each case is going to take, and the attorney for

the plaintiff says it is a short case and will take about half a day, and then the various attorneys note down the time allotted to the various cases in their note books, and put down two or three days. I have used actual cases in my own work, and after I have eliminated a lot of matter in a so-called short case, I never have found a case which could really be tried at one sitting of a practice or moot court. We have tried that sort of thing, but it drags along even after you have eliminated everything you can. So, as I say, it takes too much time. We try to give students a chance to prepare a case, to make their proof of service, and then the student appearing for the defendant comes in and demurs or answers or moves to strike out; then motions are made, and finally we come down to the actual trial. In Wisconsin a special verdict is a matter of great importance. We assume that all controverted facts in the pleadings are supported by the evidence. So we prepare a special verdict on that, and then motions are made on the special verdict, judgment is entered, and the defeated party takes his appeal. That is an outline in brief of what we have decided that we can do in actual trial work, and it is as much as we try to accomplish.

James B. Brooks of Syracuse University College of Law :

I would like to balance this thing up a little bit. I am afraid that I do not have the reverence for this matter of practice that I ought to have. We have a lot of it in our curriculum, and I would cut out at least one-half of it, if I could. The judges are complaining because our young men are not full-grown, mature lawyers when they come into court, and they insist upon our teaching the details of practice as far as possible, even of the trial of questions of fact, when the truth is that only a small percentage of the lawyers ever try questions of fact to any great extent.

I do not consider that my students are being trained to go into court and try cases before a jury specially. But what I rose to say is this: The moot court which presents questions of law, puts the student on his mettle to find the law and the authorities, and determines the form of action as a rule. This also gives the instructor an opportunity of training the student in the things

that he ought to be trained in, such as his address to the court, his attitude and his language before the court; the logical arrangement of his points in his brief; the proper citing of authorities; the backing of his papers, and all the little details so needful to be known. The young men are grateful for this kind of training which they get only in a court that is organized for presenting and discussing questions of law. When they are rightly instructed in such a court no student can go through a term without becoming familiar with the whole framework of the case in court. They cannot fail in this very well if they are men that have the legal conception, the stuff in them that enables them ever to try actions successfully.

Experience, as we all know, is very excellent. I left the law school without ever having read a copy of the Code of New York, and I never had heard a lecture upon it. I never saw a paper prepared under the code until one was served upon me, that I remember, yet I never had any difficulty with the code of practice. I have an abiding faith that if a man is made for a lawyer, he will have no serious difficulty with the practice if he knows the law. So I would cut out all this routine of trying to fashion a mock court for the trial of questions of fact.

I feel very much interested in this branch of our work, but I do not think it is right to take all the time that we do take in teaching the young men how to write their names on a paper or how to draw up a paper, or how to examine a witness.

When the young man gets out of school and gets into an office, and has had one case of foreclosing a mortgage, for instance, he will never want any instruction on that subject, yet it might take me three months to get into his head what he himself would learn in that one bit of experience. I would rather have a man who goes out without knowing anything about practice than have a man that has been put through all this detail in mock trials in the endeavor to build him up in trial practice. In the first case he will learn through application and industry, and will constantly advance in self-reliance; in the other case he will always be trying to remember the things he was taught in school, and independence will be lacking.

Frank M. Porter of the University of Southern California College of Law:

There is a strange difference of opinion as to the value of and the time that may be given to this subject. The objection is made that you cannot turn out a finished practitioner. Of course, you cannot turn out a finished product. You can teach the law of property and your man knows something about that subject, but he is not a finished product. I think it is possible and desirable to teach practice in a school. Not that you will create a perfect instrument, but you will turn out a man who will know something about how to conduct himself when he first appears in court, and he will be enabled to fit himself easily to the demands of practice that may arise. I was recently talking with the graduate of a school, a young man who has the degrees of A. B. and J. D. He said: "I am loyal to my school, but it does not do all that it should. I graduated and got my degrees and the first week I was in an office a man brought in a summons and complaint and asked me what to do about them. I did not know a summons from a lease, so I took the papers from him and got behind the door and read part of them and found that I had ten days in which to do something. I then told the man to leave the papers with me and come in again. After the man had left, I went to a lawyer to find out what they meant." A prominent attorney of this city said to me today: "Law school graduates are of no use in an office; they don't even know what a summons is." This moot court practice is a good thing because we can teach the students in that way what they will run up against in their first experience of actual court work. We are teaching the students about tools. Why not give them some practice in the way of using them? Every student is looking forward to practicing in court some day, yet the idea seems to be that you should eliminate the moot court. For eight years I have been connected with a school in which there has been gradually developed an elaborate moot court system. I can assure you that the boys do not have to be urged to do this work. We require two and a half years actual moot court experience. The objection is made that it takes time that should be given to something else, but I think the time is

well spent. In the Freshman year we have lectures upon the duty of an attorney to his client, his duty to the court and to the state, and lectures on the elementary principles of practice. They are also required to file two complaints and two answers. In the second and third years we require the students to try four cases a year, and appeal two cases. They must prepare their pleading and trial briefs just as an attorney would in an actual court. The students are marked and given proper ratings on promptness, pleading, preparation and conduct in court. The average mark must be at least that required for passing in other subjects. Every paper before it is filed goes to the presiding judge. If it is markedly deficient in matter and form, it is returned to the student for correction. Then it is filed. A demurrer may then be interposed. Finally, they come to the actual trying of the case when they must strike jury, examine witnesses, etc., just as is done in the Superior Courts. We find that the boys get a great deal of practical and valuable experience in this way. Every Tuesday night with us is set aside for moot court work. We have twelve lawyers on the pay roll of the school who preside at these mock trials, and we try some 900 cases every year. It costs money, takes time, and requires careful attention and supervision, but I believe that it pays. It gives the students enthusiasm for their life work, besides giving them the necessary instruction. I do not believe that it is at all impossible to teach practice. Of course, the teacher must know how to practice, himself, if he is going to teach others, and it is not at all difficult to find such teachers.

H. A. Bronson of the University of North Dakota College of Law :

As a Bar Examiner I would like to suggest to the teachers here a question. The fundamental defect as I have observed it today, and as has been brought to my mind as I have listened to the talk that has taken place here, is that there is no ability to vitalize the moot court. In dentistry the prospective dentist operates on his patient. In medicine the physician operates on his patient. Why not propose something of the same sort in

law? Why is it not possible for the learning that we have here represented in the law schools to vitalize the moot court. I have observed that the men who have had an opportunity before admission to the Bar to go into a justice's court and get actual practice are the men that more readily forge ahead in the actual practice. As a Bar Examiner, when a student comes before me to be admitted I assume that the tendency is, among the law schools today, that I am to examine him for admission to the Bar upon the theory that he is qualified to practice law. That assumption is incorrect, is it not? Must it not be incorrect so long as we only allow a three years' course within which to teach substantive law and procedure? In this country our law is even more complex than it is in continental Europe, where it requires about three times the time to fit a man for admission to the Bar and where some sort of legal clinic is provided; it seems to me that the fundamental objection to the moot court practice is that we do not sufficiently vitalize it.

William R. Vance of the University of Minnesota College of Law:

At the request of the Secretary I will read the report of the Executive Committee. It is in print and is as follows:

The Executive Committee presents the following report of its proceedings:

On April 6, 1912, the committee met at the University of Pennsylvania Law School in Philadelphia, Messrs. Roscoe Pound, William Draper Lewis, William S. Curtis and George P. Costigan, Jr., being present. The meeting was called at the request of Dean Henry Wade Rogers, of the Yale Law School, Chairman of the Legal Education Committee of the American Bar Association, and the members of both committees discussed informally various matters which concerned the work of the Legal Education Committee.

With reference to the matters referred to it by the Association of American Law Schools at its last meeting in Boston, and with regard to other matters, the Executive Committee voted:

1. That it is inadvisable to divide the Association of American Law Schools into sections or to have a single section such as was

proposed in the resolution offered at the last Annual Meeting of the Association.

2. That there is no occasion to make any change in the system of bookkeeping which has been used for a number of years last past by successive Secretary-Treasurers, but that, to facilitate the auditing of the Treasurer's accounts, it shall be the duty of the President of the Association at the first session of the annual meeting of the Association to appoint an Auditing Committee, which Auditing Committee shall report at the second session of the Annual Meeting of the Association.

3. That the Executive Committee recommends that Subdivision 4 of Article Sixth of the Articles of Association be amended to read:

"4. It shall own a law library of not less than 5000 volumes."

4. That, if possible, the President arrange for a paper on and discussion of the subject of moot courts and practice courts in American Law Schools.

5. That a reception and smoker such as was given for the first time last year be held during the 1912 meeting.

6. That a meeting of the Executive Committee be held in Milwaukee on the day of the first session of the Annual Meeting of the Association to consider applications for admission to the Association and such other business as may properly come before the committee.

The College of Law of Marquette University, Milwaukee, Wisconsin, the College of Law of the University of Idaho, the Law Department of the University of Montana and the Department of Jurisprudence of the University of California have applied for admission to the Association.

The proposed amendment to Subdivision 4 of Article Sixth of the Articles of Association was filed with the Secretary on May 2, 1912, and on the same day a copy of the proposed amendment was sent to each member of the Association.

The Executive Committee will hold its next meeting at the Hotel Pfister in Milwaukee at 10 o'clock on August 26, 1912.

GEORGE P. COSTIGAN, JR.,

Secretary.

ROSCOE POUND,

President.

The Executive Committee makes also the following supplemental report:

The Executive Committee reports that it held a session in Milwaukee at 10 A. M. on Monday, August 26, 1912, and after full deliberation makes the following recommendations:

1. That the applications for admission to membership made by the Department of Jurisprudence of the University of California, by the Dickinson Law School, by the College of Law of Marquette University, by the Law School of the University of Kentucky, and by the Law Department of the University of Tennessee are approved and it is recommended that each of the said schools be admitted to membership in the Association.

2. That the consideration of all other applications for membership be indefinitely postponed.

3. That the following resolution as to the policy to be pursued by the Association in the matter of admission to membership be adopted by the Association:

"WHEREAS, The maintenance of regular courses of instruction in law at night collateral to courses in the day tends inevitably to lower educational standards,

"Be it Resolved, That the policy of the Association shall be not to admit to membership hereafter any law school pursuing this course."

ROSCOE POUND,
President.

GEORGE P. COSTIGAN, JR.,
Secretary.

W. P. Rogers of the Cincinnati Law School:

I suggest that we take up the report of the Executive Committee item by item.

The President:

I think that is a good suggestion, and by general assent we will do that.

Sub-division 1 of the printed original report adverse to the formation of sections was read, and, on motion, adopted.

Sub-division 2 of the original report as to the system of book-keeping and the auditing of accounts was read.

The President:

Objection was made last year that the Auditing Committee could not within the five or ten minutes at their disposal properly audit the Treasurer's books. The recommendation here simply is that the bookkeeping system stand as it always has, but that more time be allowed for the auditing.

On motion, sub-division 2 was adopted.

Sub-division 3 recommending an amendment to the Articles to require each school to own a law library of not less than 5000 volumes, was read.

James B. Brooks of Syracuse University College of Law:

What will happen if a member of the Association does not own a library of 5000 volumes?

The President:

I suppose they would be given a reasonable time within which to procure such a library.

James B. Brooks:

That is what I suppose. The word "volumes" does not mean anything. I like the spirit and the intent of the resolution, but "5000 volumes"—why, any of us can collect 5000 volumes that are not worth very much. I suppose all of us have invitations every year to send a representative to inspect a library that is for sale. I think that language is a little obscure, and that it should be made somewhat more definite in specifying the kinds of books that are to be included in the library.

William S. Moorhead of the Pittsburgh Law School:

I understand that the purpose of this amendment is to set up a standard to which all law schools, belonging to this Association, shall be required to conform—the object being to require every law school to have a certain equipment in the way of a library. It is intended that every member of this Association should be provided with facilities whereby its students may be enabled to examine citations, prepare assignments of work and follow up certain extra curriculum activities.

If that is the spirit of this resolution, I may say that the law school of the University of Pittsburgh is in hearty accord with it.

I should, however, like to note an objection to the manner and form in which the amendment is drawn. It seems to me that undue emphasis is laid on the word "own." If the ownership of a library is the object aimed at, should not the kind of ownership be more clearly defined? Should not the amendment express whether the ownership is to be absolute or qualified? Would it be complied with if a law school in St. Louis owned, as conditional vendee, a law library of 5000 books located in Boston? A mere consideration of this question appears to me to show clearly that it is intended by the amendment to insist that the students of every law school, member of this Association, shall have convenient access to a law library of at least 5000 volumes no matter in whom the legal title thereof is vested.

As an example of a library to which the students of a law school have convenient access, and the title to which is not in the school, I hope I may be pardoned if I call attention to the Pittsburgh Law School. It is located directly across the street from the Allegheny County Court House, in which there is a library of over 25,000 volumes. A section of the reading room is set apart for the use of students at law, and every facility is afforded them for referring to books. They are even permitted to take books from the library for limited periods. In the law school itself, there is a law library consisting of some four or five hundred volumes, to which reference is most frequently made in the lectures and the books used in the various courses.

I have called attention to the situation of the Pittsburgh Law School for the reason that it is, to my mind, a shining example of an institution which has complied with the spirit of the amendment and which would, nevertheless, violate the strict letter thereof.

There is another feature of this amendment to which I should like to call the attention of this meeting. The wording seems to require the immediate purchase of 5000 volumes of law books. Would it not be unwise for any one to endeavor to purchase that number of books without a very thorough and careful considera-

tion as to what books should be chosen? If a collection of any kind of property depends for its value on the care with which it is selected, surely a library is that kind of property. It seems to me that a careful selection of 5000 volumes would require at least two years time. I understand that law books can be purchased in New York for 25 cents a volume, so that it would not be so difficult to meet the requirement of the amendment that the library be purchased immediately, as it would be to comply with the spirit of the amendment, as I understand it, of providing suitable equipment.

William R. Vance of the University of Minnesota College of Law:

May I interrupt the gentleman to say that these requirements are for those schools that are hereafter to be admitted to membership in the Association?

William S. Moorhead:

If, as the gentleman says, the amendment does not apply to law schools which are already members of this Association, then the objection that the amendment requires an immediate purchase of 5000 volumes is, perhaps, without force. My objection to the wording of the amendment on the other ground, however, still appears to me to be well taken. If absolute ownership of a library of 5000 volumes is required, rather than convenient access thereto, would not some law schools, with a far better equipment than that required by the amendment, be excluded from membership in this Association?

James Parker Hall of the University of Chicago Law School:

I would say, in addition to the objection made by Mr. Brooks, which goes to the root of the matter, that in the National Reporter System each volume contains the same matter that is contained in five or six separate volumes of state reports. Is this to be counted as one volume or six?

The President:

I think the Executive Committee may be relied upon to apply this amendment properly. We must leave them some discretion.

William Draper Lewis of the University of Pennsylvania Law School:

I understand the meaning of the resolution to be that we will not admit to membership in the Association a law school that does not possess a proper library. It was the sense of the committee that it should not encourage law schools that did not have thorough equipment; that is all. Such a library could be purchased intelligently and a careful selection made from any reputable bookseller in a very short time. Of course, if you wanted to create a library of 50,000 volumes it would take several years to do it. But that is not the point. Now as to schools already in the Association; as to them it is for the Association to determine whether they will be given a reasonable time to come up to this requirement.

Samuel Williston of Harvard University Law School:

I move that the supplemental report of the Executive Committee be adopted.

H. S. Richards of the University of Wisconsin Law School:

May I ask what investigation the committee has made of the schools which have made application for membership?

William R. Vance of the University of Minnesota College of Law:

Taking up the applications separately, there is first the Department of Jurisprudence of the University of California. The only investigation which has been made there has been through an examination of the bulletin which they issue, and also conference with a member of the faculty of that school who is present here. I think it is a matter of common knowledge that that school has been complying with our requirements for admission for some years.

H. S. Richards:

I would like to inquire whether that includes any of the courses in the Hastings College of Law?

William R. Vance:

No; that is entirely separate and distinct.

Samuel Williston of Harvard University Law School:

I move that the recommendation of the committee in respect to the Department of Jurisprudence of the University of California be approved.

The motion so made was seconded, put and carried.

William R. Vance:

Next comes the application of the Dickinson Law School. As is well known to all members of this Association, this is an old law school of very excellent standing. Considerable investigation was made last year in respect to this school, and additional information was asked for, which additional information was lately received. We consulted with certain members of the Association residing in Pennsylvania, who were in a position to know about this school. The investigation has not gone further than that.

H. C. Jones of the George Washington University Department of Law:

How long has this school been maintaining a three years' course?

William Draper Lewis of the University of Pennsylvania Law School:

I may answer that. The school has been established for a long number of years, but it has been on a three years' basis only since the Pennsylvania state requirement of a three years course. The entrance requirements are up to our standards, as it requires the passage of a preliminary examination at the hands of the State Board of Law Examiners.

Henry Wade Rogers of Yale University Law School:

I move that the action of the Executive Committee so far as Dickinson Law School is concerned, be approved.

The motion so made was seconded, put and carried.

William R. Vance:

The next application is that of the College of Law of Marquette University. This application has been before the committee for

two years. It was passed last year because the committee was not satisfied that the school met all the requirements for admission to this Association, but certain representatives of the school were before the committee yesterday and the committee is entirely satisfied that the school is not only meeting the requirements of the Association, but that it is doing more than that, and that so far as we could learn the ideals in the administration of the school are excellent.

D. O. McGovney of Tulane University Department of Law:

I would like to ask if these schools which are applying for membership meet the library requirement that we have just adopted?

William R. Vance:

Of course, we could not compel them to meet that requirement in advance of any action on that resolution by the Association. I may say that none of these recommendations is based upon an examination of the library facilities of the applicant. We were satisfied in each case without going into that requirement.

D. O. McGovney:

But we have now adopted a requirement on the recommendation of the Executive Committee that the law schools shall have a library of at least 5000 volumes.

The President:

I would suggest that the Executive Committee had no reason to know whether its recommendation as to a library would be adopted, and it could only pass upon these applications on the conditions as they existed.

Oliver A. Harker of the University of Illinois College of Law:

Inasmuch as the Association has just adopted a provision requiring each law school to have a library of 5000 volumes, I think we should require them to meet that within a reasonable time.

W. P. Rogers of the Cincinnati Law School:

This was not the rule at the time these applications were made,

and I do not think it would be fair to act unfavorably on these applications now because of that rule. In regard to the law department of the University of California, I understand they have a library of about 10,000 volumes.

William R. Vance:

The representative of Marquette who appeared before the Executive Committee is here and I will ask him to inform the Association as to the school's law library.

Charles B. Moulinier of Marquette University:

I appeared before the Executive Committee yesterday, and the question of a library came up. I was asked if the school I represent had 5000 volumes. I said no, but that when your regulation becomes effective next year we certainly will have 5000 volumes, and I hope many more. I told the committee that we had 3000 volumes or perhaps a few more now. The school is a private school, as you must know; it is not subsidized. The student body does not particularly suffer from this deficiency at present, because there are many libraries in our city and besides most of our students are also in attendance in law offices.

On motion, the recommendation of the Executive Committee that the College of Law of Marquette University be admitted to membership was approved.

William R. Vance:

The next application is that of the Law School of the University of Kentucky. I understand that school does not possess a library of 5000 volumes at present.

Mr. W. T. Lafferty of the Law School of the University of Kentucky.

We have just completed our fourth year. We have some 1500 to 2000 volumes, and we have a gift of 1900 volumes which will be on hand shortly, and besides that we have an appropriation of \$1500 annually available to supplement the library that we already have. We are able to comply with this requirement within thirty days.

On motion, the recommendation of the Executive Committee as to the Law School of the University of Kentucky was approved.

William R. Vance:

The next and last application is that of the Law Department of the University of Tennessee. The faculty of that school have been making an heroic effort in the last four years to meet our requirements, and they have at last been able to do so in so far as providing a three years' course is concerned. I have no information as to their library facilities.

The President:

I had a conference with Judge Ingersoll about this matter and I told him of the recommendation which we were about to make, and I had his assurance that it would be an easy matter to comply with that, compared with the difficulties that he has had in complying with the matter that has so long separated his school from us.

On motion, the recommendation of the Executive Committee as to the Law Department of the University of Tennessee was approved.

William R. Vance:

The next recommendation of the Executive Committee in its supplemental report is, that the consideration of all other applications for membership be indefinitely postponed.

On motion, this recommendation was approved.

William R. Vance:

The Executive Committee recommend that the following resolution as to the policy to be pursued in the matter of admission to membership be adopted:

"WHEREAS, The maintenance of regular courses of instruction in law at night, collateral to courses in the day, tends inevitably to lower educational standards,

"Be It Resolved, That the policy of the Association shall be not to admit to membership hereafter any law school pursuing this course."

I move the adoption of that resolution.

Simeon E. Baldwin of Yale University Law School:

I was struck with the remark of one of the gentlemen participating in the debate this afternoon with reference to moot courts.

He said that his school found that they could get practitioners in the city where the school was located who would come in and take evening classes for the moot court, and that while this was done at some expense to the school, the result was satisfactory. It seems to me that there can be no objection to a proceeding of that nature, using the evening moot court as an auxiliary means of instruction.

The President:

I think, Governor Baldwin, that what the committee means there is giving the same course over again at night that is given in the daytime.

Simeon E. Baldwin:

That would hardly be "collateral" to the course given in the day.

The President:

Possibly the word "collateral" is the wrong word to use.

Samuel Williston of Harvard University Law School:

I think "parallel" would be a better word to use there.

The President:

The committee may have the authority to use the proper word.

The wording of the resolution was then changed to read:

"WHEREAS, The maintenance of regular courses of instruction in law at night, parallel to courses in the day, tends inevitably to lower educational standards,

"Be it Resolved, That the policy of the Association shall be not to admit to membership hereafter any law school pursuing this course."

On motion, the resolution as changed was adopted.

Oliver A. Harker of the University of Illinois College of Law:

I have a report to make from the Auditing Committee. The Treasurer has furnished us with the books and vouchers, and as an Auditing Committee we report that we have examined the same and find that the Treasurer's report, made under date of August 26, 1912, is correct, and that there is now in his hands belonging to the Association the sum of \$832.39.

On motion, the report of the Auditing Committee was received and adopted and the Treasurer's report so audited was approved.

The Treasurer's report so approved was as follows:

To the Association of American Law Schools:

As Treasurer of the Association I submit the following report:

Receipts.

| | |
|--|-----------|
| Balance on hand at time of last report..... | \$759.68 |
| Annual dues collected | 380.00 |
| Interest on deposits through July, 1912..... | 14.82 |
| | <hr/> |
| | \$1154.50 |

Expenditures.

| | |
|--|-----------|
| Lord Baltimore Press for printing program and 1911 Proceedings | 78.07 |
| Exchange on checks | 1.20 |
| W. R. Vance, expenditures for Association during 1911 meeting | 7.90 |
| Placards and Smoker, 1911 meeting..... | 25.65 |
| C. A. Morrison, reporting 1911 meeting..... | 50.00 |
| F. Thulin, clerical work | 4.30 |
| F. Thulin, stamps and envelopes for mailing 1911 Proceedings and 1911-1912 bills | 14.46 |
| Other postage | 4.50 |
| Telegrams and express | 3.38 |
| Flora Kisters, services as stenographer..... | 11.95 |
| Roscoe Pound, expenses Executive Committee meeting..... | 18.75 |
| William S. Curtis, expenses Executive Committee meeting.... | 50.00 |
| Geo. P. Costigan, Jr., expenses Executive Committee meeting.. | 48.90 |
| Preliminary expense, 1912 smoker..... | 3.05 |
| Balance in State Bank of Evanston, Evanston, Ill., not checked against on August 26, 1912..... | 832.39 |
| | <hr/> |
| | \$1154.50 |

Respectfully submitted this 26th day of August, 1912.

GEORGE P. COSTIGAN, JR.,
Secretary and Treasurer.

James Parker Hall of the University of Chicago Law School:

The Committee on Nominations submits the following report, recommending the election of the gentlemen named as officers of the Association for the ensuing year:

For President, Henry M. Bates; for Secretary-Treasurer, Walter W. Cook; for Members of Executive Committee, Roscoe Pound, William Draper Lewis, D. O. McGovney.

On motion, the report was received and the nominees duly elected.

Henry Wade Rogers of Yale University Law School:

There are one or two matters that I would like to present simply with a view to placing the Association on record.

Members know that at the present time the American Bar Association has approved a rule governing admission to the Bar which shall require a course of four years for those who come to the Bar through the law office and who are not graduates of a law school. The discussion this afternoon sheds light upon what I am about to say, and we have had similar discussions in previous years, namely, that the law schools at the present time are not successfully teaching practice. I do not care to raise the question whether they can or cannot teach it, but they are not doing it successfully. The New York State Board of Law Examiners, has had a wider experience than any other state board in this country, and has passed upon the admission of 15,000 attorneys since the board was constituted. As a result of its experience the Secretary of that board has stated in the meetings of the Sections on Legal Education in several different years that they were satisfied in New York that a man seeking to enter the legal profession ought to be required to study law in a law school and they were also satisfied that he ought to spend a certain amount of time in a law office. In fact I am informed that the State Board of Law Examiners in New York, and the law schools of that state, are agreed in asking the New York Court of Appeals to require all applicants for admission to be graduates of recognized law schools and to spend a year in an office in addition.

I think the time has come, and I believe the Committee on Legal Education of the American Bar Association is ready so to advise, when we ought to take a step in advance of any step that we have yet taken. We know that men cannot come into the profession of medicine unless they have graduated from a medical

school. That is the rule in every state of the union with one or two exceptions. In many states a man cannot become a dentist unless he is a graduate of a dental college, nor can a man practise pharmacy unless he is a graduate of a school of pharmacy.

Now, I should like to have the opinion of the Association on this resolution:

Resolved, That the Association of American Law Schools approves the adoption of a rule governing admission to the Bar which shall require a man to be a graduate of a recognized law school having a three years' course for the LL. B. degree, and in addition he shall spend a year in a law office.

James Parker Hall of the University of Chicago Law School:

Although it be true that many law schools are not teaching practice very successfully, I think it is also undeniably true that there is not the least certainty that a man in his first year in an office would obtain any valuable instruction in practice at all. In the office they have him do what is most convenient for them, and sometimes it is answering calendar calls, sometimes attending cases in a municipal or justice's court and more often briefing; and, until we have a large number of law offices where some systematic effort would be made to teach students practice, it seems to me futile to require any fixed period of attendance in a law office as a condition precedent to admission to the Bar.

William E. Higgins of the University of Kansas School of Law:

I would like to know what investigation the gentleman has made that leads him to the conclusion that practice is not successfully taught in the law schools? Of course, the student does not learn there all the actual practice, but he does get the fundamentals. There are many sections in this country where lawyers are needed, and when a young man gets out of the law school if he goes to those sections he can at once get into practice. To require a young man from such a section of the country immediately upon his graduation to enter a law office and spend a year would be a hardship.

William S. Curtis of the St. Louis Law School:

If the American Bar Association had acted upon this resolution I might be willing to approve of it. But is it becoming for us to do so? Is it becoming for us in advance of the adoption of such a measure to take a prominent part in the agitation of the change in a rule and require all applicants for admission to the Bar to be graduates of a law school?

William Draper Lewis of the University of Pennsylvania Law School:

I do not want to cut off debate, but this a very important subject and more than half of our members have left. I feel certain that most of us are not prepared to vote on this question now. I therefore move that the resolution offered by Dean Rogers be referred to the Executive Committee with the request that they report upon it at the next session.

The motion so made was seconded, put and carried.

Albert Kocourek of Northwestern University Law School:

I have a short report from the Committee on Legal Philosophy, as follows:

The Committee on the Study of Legal Philosophy begs to report the progress for the year. At last the work has reached the stage of printing. The first volume to be brought out under the Committee's auspices appeared two months ago and is now ready for the inspection of the members of the Association. The second is at this moment of writing almost off the press but may not be ready for exhibition at this meeting. These two volumes, with the one already published before the committee undertook the series, form a comprehensive plan of introductory reading to the whole series.

Plans have been made for securing for each volume a special introduction; one by an American and one by an English jurist. A list of these will be seen in the revised Prospectus distributed at the meeting. Among the American introducers are five judges of Supreme Courts. To infer from the interest shown by these distinguished gentlemen, "the gladsome light of jurisprudence" of which Lord Coke wrote so feelingly 300 years ago, is now about

to resume its benign influence over the minds and feelings of these arbiters of our juridical destiny.

The committee ventures to urge for this series the active interest of the members of the Association. If we are to build up a constructive mind in the coming generation of lawyers, the present generation of teachers must show public favor, in the presence of the students, to this class of thinking, and must use every opportunity to cultivate students' interest in it.

The President:

By general consent, the report is received and will be placed on file.

The following report of the Committee on the Study of Legal History was also received and filed:

REPORT OF THE COMMITTEE ON THE STUDY OF LEGAL HISTORY.

The Committee on the Study of Legal History herewith begs to submit a report of the progress made during the year.

At last the process of publishing the translated volumes has begun. There are now ready for inspection for members of the Association, Vol. I of the series, viz., General Survey of the History of Continental Law and Vol. III, viz., History of French Private Law. Vol. II is now printing in England and will be ready during September.

The committee during the year has been able to secure the cooperation of many eminent American and English scholars for the purpose of calling the Bar's attention to the usefulness of the series; each volume will be prefixed by an introduction from an American and English legal scholar. Most of the Americans thus officiating are members of legal faculties represented in this Association. The English include Professors Holdsworth, Jenks, Vinogradoff, Sir F. Pollock, Sir John Macdonell, Hon. Sir W. G. F. Phillimore, L. O. Pike, and Dr. Harold Hazeltine. Canada is represented by Professor Walton and Australasia by Hon. John W. Salmond. Vol. I of the series is introduced by Oliver Wendell Holmes, of the Supreme Court of the United States.

The committee has received the most cordial cooperation from the publishers, who are sparing no pains to make the volumes worthy of their distinguished authors.

The committee considers that the translators are also entitled to the hearty thanks of the Association for the unstinted pains and scholarly enthusiasm which they have put into their task. Few people realize the debt which they owe to the translator of a good book and this committee is not going to allow that debt to pass unacknowledged.

The committee earnestly bespeaks the attention of the members of the Association to the prospectus and to the volumes now in print, and hopes that every effort will be made to bring the series to the attention of those whom it would interest and to refer to it in school work as much as may be appropriate.

Frederic B. Crossley of Northwestern University Law School:

I desire to offer two resolutions—the first to place on record in concrete form the views of the Association on the subject of the resolution as heretofore expressed, and the second calls for the appointment of two committees. They are:

RESOLUTION I.

Resolved, That in the opinion of the Association of American Law Schools, the present and future responsibilities of the American legal profession require that the preparation for admission should include at least one or two years of training of a *college* grade, prior to beginning the study of law; and *VOTED*, that the President and Secretary of this Association are instructed to transmit a copy of this resolution to the Chief Justice of the Supreme Court, the Chairman of the Board of Bar Examiners, and the President of the Bar Association, in each state and territory, requesting them to use their efforts to bring about such a requirement for admission to the Bar in their jurisdiction.

RESOLUTION II.

Resolved, (1) That this Association authorizes the appointment of two standing committees, one on Cooperation with State Bar Examiners, and one on College Preparation for Law School;

(2) That each committee be composed of three persons, members of the faculty of a school in the Association;

(3) That the members be appointed by the President whose term expires at the annual meeting, and the appointments announced before the meeting closes;

(4) That the members be so selected that two at least will be within 100 miles of each other, and that all will be within 1000 miles of each other, so as to afford opportunity for personal consultation;

(5) That the members hold office for three years at first, and that thereafter one member be changed each year, until the term of office be three years for each, with one member changing each year;

(6) That the Treasurer be authorized to pay clerical expenses of each committee, not exceeding \$100 each.

The first resolution does not propose any new policy, it merely aims to embody in one resolution the views of the Association as already expressed in the matter of required academic training, and proof of same; the second resolution provides for the appointment of two committees to cooperate with the boards of law examiners and with colleges in securing the adoption of the recommendations in the first resolution. Dean Wigmore forwarded copies of these resolutions to me together with a letter giving his reason for proposing them. He has already submitted them to the different faculties of the membership of the Association and has received replies from nearly all. Only one reply fails to endorse the resolutions.

William Draper Lewis of the University of Pennsylvania Law School:

I do not want to seem to oppose these resolutions, but I do not think we should pass upon them now. I among others received copies of the resolution from Dean Wigmore, and, to the best of my knowledge, I did reply; but resolutions of this importance should, it seems to me, go to the Executive Committee or to some special committee and then come before the Association at a time when we can give reasonable consideration to them. I, therefore, move that these resolutions be referred to the Executive Committee with the request that they report upon the same next year.

Frederic B. Crossley:

I fail to see any force in the gentleman's objection to the adoption of these resolutions *now*. I have here in my hands his signed endorsement as the representative of his faculty, given I presume, after some consideration. There are no new facts; the situation now is as it was then. The motion to refer to the Executive Committee simply means marking time for another year. Coming from one who has had ample opportunity to consider the resolutions and who has already in writing approved them it is not reasonable nor is it fair to those who have labored to have these resolutions considered and acted on at this meeting.

The motion to refer the resolutions to the Executive Committee was then put and carried.

Henry Wade Rogers of Yale University Law School:

I move that a committee of five be appointed by the President to consider and report next year whether any action should be taken by this Association, and if so, what action, in reference to the conferring of the J. D. degree.

Charles M. Hepburn of Indiana University School of Law:

This brings up a very interesting question and a broader question than the J. D. degree. The catalogues of this year show a remarkable development in the degree. Now it seems to me that if we are to have a committee on the J. D. degree it might as well take cognizance of all the other degrees. I, therefore, offer as an amendment to the motion that has been made that the committee consider not only the J. D. degree, but the matter of granting other degrees, and the question of standardizing the various degrees granted by schools that are members of the American Law School Association.

The President:

I will announce the names of the members of that committee later and give them to the Secretary so that they may be incorporated in these minutes.

[The President later appointed as Committee upon Degrees, pursuant to the motion last above adopted, the following delegates: Henry Wade Rogers, Chairman; Samuel Williston, William Draper Lewis, James Parker Hall, Edward W. Hinton.]

I believe there is no further business to come before the Association, and, if that is so, I will declare this meeting adjourned.

GEORGE P. COSTIGAN, JR.,

Secretary.

TAUGHT LAW.

BY

ROSCOE POUND,

OF CAMBRIDGE, MASSACHUSETTS.

A recent German writer tells us that the public is dissatisfied with the jurist and that the jurist is dissatisfied with himself. No doubt some part of the general dissatisfaction with the jurist is undeserved. The world over, law is in a condition of transition. The change of base from the individualist idea of justice of the eighteenth and nineteenth centuries to the idea of social justice must needs be accompanied by much straining of legal systems and must needs bring about much crude groping for the principles by means of which the idea of social justice may be realized. Moreover, public dissatisfaction with the jurist is to some extent perennial and must be referred in part to causes inherent in the administration of justice according to law. Conceding this, the public has none the less a good case against the American teacher of law. While the rest of the world is imbued with faith in the efficacy of effort and while, under the stimulus of that faith advance and achievement are the order of the day in every other field of learning, it is too true that the legal scholar is busied chiefly with threshing over old straw. It is too true in this country that, under the influence of ideas derived from purely historical study, he is sceptical as to the outcome of conscious law-making, he doubts the possibility of deliberate direction of legal development and hence he leaves it to laymen, whose crude, if well-meant, efforts are unhappily too justly subject to criticism, if not even to ridicule, to wrestle as best they may with the legal problems involved in social progress. It is probably not true, on the whole, that our jurists—and by this I mean our teachers of law, who at least ought to be our jurists—are dissatisfied with themselves. But I submit they

should be so dissatisfied and that it will be a healthy symptom when such dissatisfaction becomes acute.

Three defects in our law, as it is taught, as it is laid down by our courts, and as it exists as a body of professional tradition, are conspicuous and of grave import. Briefly stated they are:

1. The lack of any real system of law. Our law is rather a congeries of subjects worked out independently in detail than a true system.

2. The sharp line between the traditional and the imperative elements in our law and the resulting attitude of teacher and text-writer, court and practitioner, toward legislation.

3. The attitude of the law as a whole, still in large part accepted by lawyer and by judge and handed down by the teacher, toward the policy of modern law-making and the relation of law to social progress.

Of the three, the first presents the problem of greatest juristic interest; the second and third problems of greater social and political interest. As I shall attempt to show presently, the practical working of our law is seriously affected by want of any thorough-going system. The deficiencies in the form of our law are of very much more than theoretical importance; they are much more than obstacles in the way of student and teacher; they work injury to the administration of justice and to public respect for law. But the second and third of the defects above enumerated produce even graver consequences. It is not too much to say that they are bringing about an acute conflict between the law as it is taught and received and administered, and those who are working for social progress. So long as those who are best qualified to study these defects of our received legal tradition neglect to do so and leaves the adjustment of the law to social justice to extra-legal agencies, this conflict will not only injure the effectiveness of the law but will threaten, if not overturn, many of the great juristic achievements of the past. Indeed it must be apparent that the doctrine of supremacy of law, which is to be put among the two or three cardinal points of the common-law faith, is now in great jeopardy because of this conflict and of the conventional juristic attitude with respect

thereto. Let us note the true nature of this conflict, the fundamental difference which it involves. It is not in the least due to the dominance of sinister interests over courts or Bar or jurists. It is not due, the legal muckraker notwithstanding, to bad men in judicial office or to intentional enemies to society in high places at the Bar. It is not a conflict between good men and bad. Instead it is an intellectual conflict. It is a war of ideas not of men; a clash between old ideas and new ideas, a contest between the conceptions of our traditional law and modern juristic conceptions born of a new movement in all the social sciences. Such a conflict the teacher of law ought not to ignore and cannot ignore, for it has its roots in the legal tradition which he teaches and thereby perpetuates, and our chief hope for deliverance is a clear recognition of the fundamental issues by those who teach and thereby mold the tradition and a conscious and intelligent effort upon their part to divert that tradition to the path of progress.

In one sense, the vitality and tenacity of the common law in the world of today is a point of pride. Something more than obtuseness and prejudice on the part of jurists and hide-bound conservatism on the part of lawyers must be invoked to explain the persistence with which this mode of legal and juristic thinking succeeds everywhere in molding rules, whatever their origin, into accord with its principles and in maintaining those principles in the face of formidable attempts to overthrow or to supersede them. A reactionary profession, zealously guarding a received tradition, might fight a slow retreat. But the fact is that the common law is by no means retreating. In the United States, it survives the huge mass of legislation that is placed annually upon our statute books and goes far to give it form and consistency. It has imposed itself upon a French code in Louisiana and is fast doing the like in Quebec. It has all but overcome a received Roman law in Scotland so that Scotch authorities are now conceding that their law is Roman only in terminology. In South Africa, the established Roman-Dutch law is giving way before it no less clearly, the Roman terminology remaining, but common-law modes of reasoning steadily gaining

ground. There are many signs in the Philippines and in Porto Rico that common-law administration of a Roman code will result in a system Anglo-American in substance, if Roman-Spanish in its terms. The American development of the common-law doctrine of supremacy of law in our judicial power over unconstitutional legislation, however unpopular at home, is commending itself to other peoples who have adopted written federal constitutions. Not only do we meet with judicial discussions of constitutional problems, fortified by citation of American authorities, in the reports of South American republics, but the Australian Bench and Bar, notwithstanding a decision of the Judicial Committee of the Privy Council in England to the contrary, are insisting upon the authority of Australian courts to pass upon the constitutionality of statutes. Moreover, if in the eighteenth century, while the absorption of the law merchant was in progress, Anglo-American law received indirectly not a little of the civil law, through the Continental treatises on commercial law, which exercised so wide an influence at that time, we were well avenged in the nineteenth century. In the more recent development of the subject, the law evolved in the English courts has played a leading part, and Continental jurists do not hesitate to admit that in this way English law has been received into their legal systems. This sort of toughness in our legal tradition is something of which we may well be proud. But it is not in this sense that taught law, to use Maitland's well-known phrase, is tough law. The toughness of the traditional law which results from teaching is of quite another sort. That toughness is not a point of pride to the teacher nor a source of strength to the law. Let us look for a moment at the distinction.

Why is it that wherever the common law comes into competition with its great rival in the practical administration of justice in the modern world it always prevails? Why is it that the only point at which the common law has met with defeat was in the contest of French law, English law and German law in the framing of the new codes for Japan? Why is it that French and German jurists are studying English administration of justice so critically in the endeavor to socialize their law, at the

very time that the common law is denounced at home as an anti-social institution? Perhaps in part we must answer the first question by admitting that in each case English-speaking judges who would not read authorities in a foreign tongue or an English-speaking court of review trained in common-law modes of thought has played a large part. But this is only a part. The decisive point is that the strength of the common law lies in its treatment of concrete controversies, as the strength of the civil law lies in its logical development of abstract conceptions. In consequence wherever the administration of justice falls mediately or immediately into the hands of common-law judges, their habit of applying to the cause in hand the judicial experience of the past rather than attempting to fit the cause into its exact logical pigeon hole in the abstract system, gradually undermines the competing body of law and insures a gradual but persistent invasion of the common law. So also when problems of application of law, of adjusting the rules of a codified system to actual controversies, are involved, as in the present movement for *libre recherche scientifique* in France, and for *freie Rechtsfindung* in Germany, the attention of the jurist is at once drawn to the English courts and the advantages of our system are perceived and admitted. On the other hand we fail in a competition between systems of legal rules as distinguished from modes of judicial administration of justice. In a comparison of abstract systems, the common law is at its worst. Hence in the trial of strength in Japan, English law failed. In a test of the actual handling of single controversies, it prevails, as in the many instances noted above. In other words the secret of the vitality of the common law is in its doctrine that causes are to be judged by principles reached inductively from judicial experience, not by deduction from rules established by the sovereign will. It is because of this fundamental idea, not because of the persistence of a taught tradition, that the common law invades the domain of its great rival at so many points and holds so tenaciously every inch of the ground won.

And yet Maitland was right in saying that taught law is tough law. Every judge and every lawyer, whether trained by

reading in an office or by teaching in a school, has his legal mind formed in its impressionable period by the traditional mode of thinking upon legal and juristic questions. Thus the traditional mode of thought becomes part, and the chiefest part, of his mental equipment. All questions are looked at from the standpoint of this received juristic tradition. Subconsciously all new elements in the law are molded thereto. Consciously or subconsciously, legislation at variance therewith is viewed with suspicion, if not with hostility. The fundamental principles of the received tradition are taken to be fundamental principles of all law. It is assumed without question that the only measure of a critique of legal rules is an ideal development of these principles. In this sense taught law is tough law, as every-day experience of American law testifies abundantly, and as legislator, sociologist, criminologist, labor leader and business man have become bitterly conscious. But if this toughness of the mode of juristic thinking which we call the common law is the toughness of a taught tradition, the conflict between our law and those who are working for social progress has its roots ultimately in our teaching of the law. In that event, as I have said more than once elsewhere, it is not recall of judges or recall of judicial decisions that should be invoked, but rather recall of law teachers, or at least recall of a great deal of law teaching.

If, then, the public are rightly dissatisfied with the jurist and the jurist ought to be dissatisfied with himself, how shall he be saved? In a shifting of the very foundations of legal systems, it cannot be hoped that anyone can map out the whole future. Indeed those who believe in the efficacy of effort, in law as in other fields of human endeavor, must not make the mistake of reverting to the eighteenth-century notion that we may lay out a chart for all time to come. We can hope only to see some of the ways which are open and to see part of the way along each. The ways which seem to me open, the ways which seem to invite the best efforts of American jurists in the immediate future, lead to attack upon the three defects in our taught and received tradition which I endeavored to point out at the outset. Let us examine these in turn.

If one doubts it, he has only to compare a modern institutional book on the Roman law, a modern elementary text-book of French law or a modern introduction to the German code with the conventional Anglo-American text-book of elementary law to see that we have no true system of the common law, much less a system of the law that actually governs. For a time in the juristic study and development of any law such a condition will obtain. Englishmen have been fond of pointing out how largely it obtained in the classical period of the Roman law. It must be conceded that the system of Roman law as it is taught and expounded today is chiefly the work of Germans, who have worked over and systematized Roman materials, rather than of Romans. The system of Roman law does not begin with Gaius, it begins with Donellus. A condition of a body of law wherein the several departments are developed in detail and are systematized without any system of the whole, represents a natural and in its time a desirable stage of development. Metaphysicians may debate as they will the logical priority of the whole or of the parts. Certainly in the evolution of law particulars come before generals, parts come before wholes. I repeat, therefore, the stage of development which is represented by the present condition of our law was natural and desirable. Indeed it was necessary. For system must first be brought into the details, into the several special fields of the law, before it may be brought into the whole. System had to be worked out in each department of the common law in detail before any system of the common law as a whole which would be worth while could be looked for. This should be emphasized because those who have pointed out the lack of system of the common law in the past have put the blame in the wrong place. It is not that we have been wrong in working as we have upon system in each of the individual departments of the law nor in the method by which we have studied and taught the law in each of these departments. Those who charge that we have erred in these respects and who cry for system of the whole first are fond of citing us to the Roman law and of invoking the supposed, but in truth much over-rated, systematic perfection of the classical Roman law. Let me vouch the

Roman law in this connection, for it sustains the argument I seek to make.

Be it repeated, the system of the Roman law, as we now think of it, is a modern achievement. How did it come about? Its roots are to be found in interpretation and development of individual texts of the *Corpus Juris* by the glossators, exactly as scientific study with us began with critical consideration of individual decisions. Next came systematic study of particular subjects or of particular departments of the law, in which the results of the first period were worked over into better form. This is the period of the commentators, and it has its analogue in the work in which American law schools have been engaged for the past forty years. Finally came a system of the whole civil law, which has been the work of a long line of jurists since Donellus. If the civil law is invoked, I submit the analogy suggests no more than that we have gone through the first and the second of the stages and are ripe for the third. We have been upon the right road in the past and our course is not to throw over what has been done since Langdell's new start and begin anew, but to recognize a new goal and set forth in that direction from the point to which his method has brought us.

Conceding this much, the condition of our law with respect to system is one which the teacher of law should recognize and should face resolutely. We have a system of contracts, limited however to substitutional redress, a system of torts, a system of specific relief, and we have systems of more detailed special fields—of sales, of duties of public service employment, of quasi-contract, of agency, of trusts. Both in teaching and in judicial decision, these fields are quite distinct. What is logically the same problem sometimes gets a different answer according to the particular field in which it chances to arise. We have got beyond a condition of independent rules into a condition of independent bodies of rules. To get thus far, indeed, has been no mean achievement. In 1870, as the work was just beginning, the editors of the *American Law Review* could say, "we are inclined to think that Torts is not a proper subject for a law book." One need only reflect upon that statement and then compare the

first volume of Ames and Smith's Cases on Torts, representing the ideas of 1874—with its successive categories of Trespass, Disseisin, Conversion, Defamation, Malicious Prosecution, etc.—on the one hand, with the second volume, representing the ideas of 1893—with its generalizations of Legal Cause, Duty of Care, Standard of Care, Degrees of Care and the like—on the other hand, to see what has taken place. The advance from Greenleaf on Evidence to the system outlined by Thayer and carried out in thorough-going detail by Wigmore, from Washburn on Real Property to the system worked out by Gray and applied to the problems of a local law by Kales, from Parsons on Contracts to the system begun by Langdell and completed by Williston, from the confusion of Perry on Trusts to the system wrought by Ames, shows what has been the task of American law teaching for the past forty years and that the task has been well done. It is time now to essay a new task.

Kohler, while praising our method of reaching rules inductively upon the basis of judicial experience, says rightly that Anglo-American legal science does not go beyond the most scanty beginnings. Long and thoroughly as we have studied the common law, we have no system of the common law as a whole at a time when a system of law as a whole, including both the imperative and the traditional elements, is coming to be much needed. Our law is cut and cross cut in three directions by three great lines of cleavage—common law and legislation, law and equity, real property and personal property. In consequence nearly every question involves two and often three modes of approach. Nearly every rule has to be learned over again in two other ways, or is subject to the qualification that it is thus if one sort of relief is sought and otherwise if another procedure is open, or thus if one sort of property is involved and otherwise if another. All kinds of combinations of these three are possible, and singly or in combination they give rise to a great variety of arbitrary rules and distinctions. Thus, in contracts (regarded as a matter for proceeding at law) we have rules as to conditions based on fundamental ideas of justice, which, when one proceeds in equity and so has to do with essentially the same questions from a historic-

ally wholly different standpoint, are replaced by rules as to risk of loss, proceeding upon theories of equitable ownership, or of mutuality, based upon notions of fairness in awarding extraordinary relief. In sales of personalty, we have doctrines now become legal which give results that in case of sales of land do not apply at law and may be reached only circuitously in equity. And yet the line here is by no means clear and plain. Judicial absorptions of equity into law and piecemeal statutory changes have made the line exceedingly irregular and at places difficult to draw with precision. Although in all but six of our jurisdictions law and equity are administered by the same court, and often by the same judge, and in a majority of our jurisdictions they may be and are administered in the same proceeding, we still think and teach and courts still judge as if they were distinct jurisdictions and as if mere questions of the remedy to be applied by one court, in many cases in the identical proceeding, were questions of the competency of more or less hostile tribunals. These lines of cleavage are purely historical in origin and subserve no useful purpose. On the other hand, they lead to difficulties of procedure and to technicalities of substantive law which impede the administration of justice by causing uncertainty, injure respect for law by making it appear arbitrary and irrational, and hinder the progress of the law by compelling teacher and student to busy themselves in learning the details of logically arbitrary rules.

In addition to the great lines of cleavage named, there are numerous minor lines, crossing the field of law in every direction. In a sense, indeed, every minor department of the law has a fence about it, and treats general legal conceptions, when found within its limits, much as an individual common-law jurisdiction—say a state of the union—treats of a general question of law when it first arises in its courts. As we have New York rules and Massachusetts rules, and Illinois doctrines and Wisconsin doctrines, so the same legal term may have a different meaning or the same legal conception a different color according to the connection in which it chances to be applied. Thus, chiefly for historical reasons, “consideration” has a different meaning according to whether one is in the field of contracts, of negotiable instruments,

of equity or of uses and trusts. It is not clear, to put it mildly, that the conception of purchase for value is the same in equity, in sales, in negotiable instruments, in quasi-contracts and under the recording acts. And yet the fundamental principle is identical.

Lack of system is not a merely theoretical or academic defect in our law. System subserves a highly practical end. Since it is impossible to anticipate the infinite variety of human action by rules established in advance, our chief reliance for the administration of justice according to principle rather than according to caprice or to the light of nature tempered by the state of the judge's digestion for the time being, must be the disciplined reason of the judges working upon the materials of a judicial or juristic tradition. As these materials increase in bulk, and they have so increased enormously in the present generation, they must be organized, if they are to be handled effectively. That they are not handled as effectively as they were in the past is in no small degree due to the great increase in bulk that has taken place without any corresponding improvement in organization and system.

To be more specific, four effects of want of system in our law and of the persistence of lines of cleavage, existing only from accidents of historical development and subserving no useful purpose, deserve notice.

In the first place, want of system, arbitrary historical divisions and far-reaching distinctions of no logical import interfere seriously with thorough apprehension of the law by the student. We must acknowledge that it is downright impossible, within the limits of a three-year course, to teach the whole law, with the thoroughness with which it ought to be taught and with which what we essay to teach is taught in our law schools. Yet I believe we should agree that, as things are, three years after college is as much as the ordinary student ought to give to the professional school. But we cannot reduce the bulk of the law. The law is likely to go on becoming more complex and more detailed. We can only put it in better order and give it that organized form and logical consistence and coherence that will

make it possible to teach and to learn thoroughly not merely method, but the essentials of every branch of the subject. The problem is by no means novel. The system of Roman law was worked out for the civilian to meet precisely this situation. The method of the glossators and of the commentators was such that in time no professor could cover more than a fraction of the field and no student could do more than learn method and be conducted by the established method over some chosen bit or bits of the law. Hence arose an imperative demand for system, of which the so-called *mos Gallicus* and the resulting system, which is the pride of the civilian and of the Romanist, are the direct result.

Again, and this is connected closely with the foregoing, want of system precludes thorough-going knowledge of the law by Bench and Bar. I need not go into this matter in detail. With some warrant we might think that the assertions of Mr. E. V. Abbott, in his paper upon the lawyer's ignorance of the law in the Outlook of September 5, 1908, are over-drawn. When he says that "the lawyer's ignorance of the law is something beyond the power of words to describe," we may, perhaps, suspect that the eminent client-caretaker in the metropolis, who is primarily a business adviser and as like as not presses a button for a boy to bring him his law, just as he presses a button to summon his stenographer or his carriage, is not a fair type of the legal attainments of the American Bar. But the consensus of testimony upon this point may not be ignored. The symposium in the Green Bag in February, 1910, the paper of Mr. Coudert read before the Section of Legal Education of the American Bar Association last year, and much more in like vein that might be cited, demonstrate that the profession is conscious of a grave condition.

Thirdly, want of system makes against the one influence which is at all strong for unity of law, namely, the common substratum of juristic tradition upon which rests the law of all but one of our jurisdictions. Twenty years ago, Judge Dillon, speaking no doubt for the generation in which he practised and judged, was able to speak of the unity of American law as an unquestioned

fact. "A most fortunate circumstance it is," he said, "that divided as our territory is into so many states, each supreme within the limits of its power, a common and uniform general system of jurisprudence underlies and pervades them all." "The mere fact," he continued, "that one and the same system of jurisprudence exists in all of the states, is of itself of vast importance, since it is a most powerful agency in promoting commercial, social and intellectual intercourse and in cementing the national unity." Probably none will doubt the desirability of the fundamental unity of law throughout our domain, of which Judge Dillon speaks. One measure of law is as important to the United States of today as one measure of wine and one of ale and one of corn were to the England of Magna Carta. But it is obvious that this fundamental unity of law is coming to be more formal than substantial, more theoretical than actual. Professor Wigmore says truly: "The fact that there are half a hundred practically independent jurisdictions must be conceded and faced. What is the law is a question which cannot be answered except as with fifty tongues speaking at once. What the law is in Illinois may well be not the law in Massachusetts or in California. It is time for the profession to discard the amiable pretense that precedents can be cited interchangeably."

Our law is held together by the traditional element which underlies the law of each state. As a general tradition, taught alike, in substance, throughout the country, it is, we may admit, a tough tradition. But from the very nature of its materials and of its mode of development it is a very flexible tradition. Flexibility is a necessary quality of a body of principles resting upon judicial experience in the decision of causes and formulated in judicial application to concrete controversies. This quality, indeed, is the strength of our law. We ought not to think of abandoning our system of judicial empiricism, which the Continent is just beginning to appreciate and to imitate. But we must recognize that the circumstances under which the common law is now handed down by our courts are very different from those in which the traditional element of our law arose and was developed in England and received in America. The common

law grew up in and for one jurisdiction with one ultimate reviewing tribunal. It grew up in and for periods of legislative quiescence. It was developed under theories of finding not of making law. Coke thought of it as "nothing else but reason." In the classical common law the words "Be it enacted" do not constitute a *deus ex machina* which may solve every difficulty. Moreover, the common law was developed in England by strong judges, great officers of state, who were independent and able to impose their ideas upon the public administration of justice. Finally, the common law was received and established in America by courts that had the prestige of the English tradition. One need not say that all of these conditions are altered. In America today we have some fifty independent jurisdictions, each more and more pulling its own way upon questions of common law. We have fifty active legislative bodies, each ambitious to lay down rules, and each attempting to deal with all manner of detail. Moreover, a political theory of absolute law-making has for a time replaced the idea of finding the law. Law existing by and through state enactment and resting upon extrinsic authority is thought of as the type rather than law existing by and through conformity to or deduction from principles of justice and resting upon intrinsic reason. The independent judge, standing out among all the officers of state as a unique figure, is passing rapidly. Chosen by popular vote for short terms, often by a double process of primary and election, subject in some jurisdictions to recall, the judge is no longer of the type by whom the common law was molded and developed in England and received in the United States. More and more the American judge is coming to be a magistrate of the Continental rather than of the English type. In an increasing number of jurisdictions he is subjected to the necessity that presses so hard upon the modern American executive—of serving us up a sensation every morning for breakfast in our daily paper. Such a magistrate can no more make the law, by common law processes, than the type of legislator we have had in the past has been able to make law by ordinary processes of legislation. Hence our common-law tradition is now more and more committed wholly to the teacher

and text writer. But while the disintegrating forces are thus active, the resisting force is weakened. Tough as it is, our common-law tradition cannot hold the law together unless it is made more easy of apprehension, both as a whole and in its details, so that the whole profession may master its system and judge and lawyer may become possessed of the key to its rules, before and not after particular questions arise, and unless it is made more consistent, more systematic, and at many points more modern, so as to appeal to the new generation as a precious possession, even as its older form was thought by our fathers their most valued heritage.

A new period of making over the common law appears to be at hand. For in the history of our legal system from the thirteenth century to the present, along with a real unity which makes the common law as a mode of thinking, as a mode of reasoning upon legal subjects, the same in substance in one century as in the next, and the same in England, the United States, Canada and Australia, just as the Roman tradition has continuity and essential identity from the third century to the twentieth, there are no less real points of new departure, periods, if not of re-birth, certainly of rejuvenation, in which liberalization has affected the law from top to bottom. In the past, such periods have been the development of equity through the rise of the court of chancery, the absorption of the law merchant, and the legislative reform movement inaugurated by Bentham. I believe another such period is upon us and that as an infusion of morals into the law made over the law in the sixteenth and seventeenth centuries, an infusion of mercantile custom made over the law in the eighteenth century, and a legislative infusion of Bentham's ideas made over the law in the nineteenth century, in the same way in the twentieth century the law will absorb the new economics and the new social science and will be made over thereby. Indeed the process of absorbing this new element is going on and is beginning to go on quite as much through judicial decision as through legislation.

Sir Henry Maine put the agencies of growth in law as three: Fictions, equity and legislation. To these, I venture to think,

we must add a fourth, namely, juristic development. If there were time, I should vouch both Roman law and the law of Continental Europe in support of this contention, and I believe our own law is about to show the same thing. For as yet we have had no real juristic development of the common law. But in the circumstances under which the common law must be made over in the period that is at hand, may we rely upon the agencies that have served in the past? There is no common legislative authority set over all common-law jurisdictions, nor is there likely to be one in any period we can foresee. Moreover, the conditions of legislative law-making today and even more those of direct popular law-making are not such as to warrant belief that legislation may do more than add sanction to what proceeds from some other source. Again, there is no common reviewing tribunal set over all common-law jurisdictions nor is the world likely to see one, at least within any period we can foresee. There are no signs that the Bench in America is likely to regain the position demanded for purely judicial development of the common law. Stress of business in the modern industrial community, added to the conditions already referred to, make it unlikely that American courts will much longer be able to do more than give authoritative form to what has been worked out and formulated by others. Indeed we see such a condition today. For example, who would contend that either legislation or judicial decision, with no stimulus from without, could ever have done for our law of evidence what has been done by Thayer and Wigmore? As our jurists give over the purely historical method which has governed exclusively in the immediate past, as efficacy of effort, already part of the social and political creed, becomes part of the juristic creed, the law teacher and the law writer—and I take it they will be one—must be our chief reliance. For the teacher of law is coming to work in the conditions of permanence and independence that were the strength of the common-law judge. He is in the position to do historical, critical and analytical work that would be impossible, even if in place, in a modern judicial opinion. Moreover, he may deal with the law and with departments of the law as a whole, while a court must look at each piece-meal.

It is true the profession is rightly suspicious of what has been styled jurist in the past. Also, law schools are rightly suspicious of any supposed higher law than the law that obtains in action in the courts. Jurisprudence must have its feet upon the ground and must not have its head so high in the clouds that it cannot see where it is going. But there is no danger so long as our study and our instruction follow the concrete method of the common law. Indeed our method of instruction from adjudicated cases precludes any abstract system of pedantic generalities. With us every juristic theory is of necessity tested at once by application to a mass of concrete problems yielded by the judicial experience of the past. But there is another factor that should prove of no less importance. The theories of the Roman juriconsult became a practical law for the world largely because he had full liberty to evolve them but no power directly to impose them. The actual administration of justice was not in his hands. *Judices* and magistrates applied the law and chose from those offered them by the juriconsults the theories and the principles they would follow and give effect. Thus the competition of juristic theories and juristically formulated principles resulted in a gradual discovery of the best path for judicial practice, just as a process of judicial inclusion and exclusion, as Mr. Justice Miller used to put it, gradually found the road for our case law in the past. In the same way the work of the law teacher must win its way, not merely in the lecture room but in the courts, and we need not fear that it will give us a law too remote from the actualities of life.

In urging upon American jurists and teachers of law that they turn to the problem of a system of law, I wish to disclaim any sympathy with so-called elementary law, as we have had it and still have it in some places. Nothing that bears that name is a system of law or of the common law in any modern sense. Nor will it be such until our teachers of law, for no one else is likely to do it, have thought through and threshed out a system of the law of English speaking countries as a whole just as they have worked out a system in each separate department of that law.

I have omitted thus far to speak of the fourth obstacle to the progress of the law resulting from our lack of a system of the law as a whole and the maintenance of lines of cleavage due to accidents of historical development, because it is identical with the second of the three defects in our taught law, as stated at the outset, namely, the attitude of law, lawyer and court toward legislation. In part this may be met by a true system of the law, in which rules, of what origin soever, shall stand together as co-ordinate parts of the *Corpus Juris* in the books, as they do or ought to do in action. But more is necessary. In a period in which the legislative quiescence, assumed by the common law, has given way to prodigious legislative activity, in which legislation is making over or attempting to make over or at least to re-state whole departments of the law, and in which there is some ground for thinking that the growing-point of the law has shifted to legislation, the attitude of our taught tradition toward this new element of the law is a matter of grave concern. For the excessive output of legislation in all our jurisdictions is no more striking than the indifference with which that output is regarded by courts, lawyers and teachers.

Jhering tells a story of a German professor to whom a question of commercial law was submitted. He returned an elaborate and thoroughly reasoned answer based upon the principles of the Roman law, then the basis of German common law and hence of legal instruction. Upon suggestion that he had omitted to notice a section of the commercial code which appeared to govern, he responded that if the commercial code saw fit to go counter to reason and the Roman law, it was no affair of his. Surely we may sympathize with the learned professor, for, under the influence of a taught traditional law and of an historical school of jurists which scouts legislative law-making, we proceed in much the same way as he. Our text writers will scrupulously gather up from every remote corner the most obsolete decisions and cite them diligently at every turn. But they seldom cite any statutes beyond those landmarks which have found a place in our common law. When they do refer to statutes it is almost always solely through judicial decisions in which they are construed or

applied. Nor will it do to say that this is justified by the instability of our legislation. Unstable as some of it is, much of it is thoroughly stable, while much of our case law is utterly unstable. None the less stable and unstable are ignored in the one case as consistently as they are preserved in the other. No. It is not that statutes are unstable. It is rather that the professional reader is not interested in them. He does not feel that they are law in the same sense as an adjudicated case; he does not want to cite them if a case may be had in which the portions of the statute applicable have been incorporated. In the same way, the courts, if they do not actually hold important legislation to be merely declaratory of the common law, too often in effect make it declaratory by citing prior judicial decisions and assuming that they express the rule enacted by the statute. This confirmed judicial habit is threatening to undo much of the work of uniform state legislation upon commercial subjects. In the same way there is a marked tendency to real common-law doctrines into statutes which were intended to alter the common law. This tendency for a long time defeated the purpose of codes of procedure. In the past few years it has been manifest in attempts to read contributory negligence into the Federal Safety Appliance Act. Whenever we get workmen's compensation acts well established, unless a change in our attitude toward statutes supervenes, they are likely to suffer for many years from interpolations of rules founded upon ideas wholly at variance with the principles on which such legislation proceeds.

There is more than one reason for the attitude of our law with respect to legislation. In part it rests upon common-law ideas which grew up in an age of legislative quiescence. In part the masterful temperament of Edward Coke, who would brook no lay interference with the body of law he had laboriously dug out of the parchments of the past, impressed his ideas upon the tradition of which he was the authoritative exponent. In part eighteenth-century ideas of finality have contributed. For the idea of first principles of law inherent in nature has always led in practice to an idea that these principles are to be identified in an ideal development of the legal principles in which the par-

ticular oracle of the law of nature chanced to have been trained. Accordingly, the study of Blackstone by which, until the last generation, all students entered upon study of the law, tended to confirm the not unnatural conviction of the nineteenth-century American lawyer, that the chief dogmas of the common law were beyond the reach of legislation and as it were had been established by nature. In large part, however, the attitude of our law toward legislation rests upon and is perpetuated by our teaching, which wholly ignores the imperative element and treats of the law as if it consisted of the traditional element only. Thus our teaching perpetuates the arbitrary division of the law according to the source by which its rules chance to have been formulated. It perpetuates the doctrine whereby the older element, represented by the traditional course of decision, stands for the real law and furnishes principles and analogies, while the newer element, represented by legislation, is regarded as something alien intruding in the body of the law and can furnish only detailed rules for the cases actually covered. It leads to a conflict between courts and people in almost every case in which social legislation involves abrogation or modification of rules established by tradition or judicial decision. For this legal theory and the political theory of law-making are incompatible. If, as our eighteenth-century books taught us and lawyers on the whole still appear to hold, consciously or subconsciously, the principles of law are absolute, eternal and of universal validity, the state enforces law because it is law and constitutions and enactments can be no more than declaratory of principles of right and justice and reason which have an independent existence. If on the other hand, as our classical political theory has it, law is law because the state has so willed, the judicial function is to be held down to a narrow one of genuine interpretation and mechanical application. Hence it happens frequently that while the lawyer thinks he is enforcing the law, the people think he is overturning the law. Not only do courts and law suffer from the suspicions and misunderstandings that flow from this divergence between legal theory and political theory, between the law as taught to the lawyer and as taught to the layman, but legislation is kept back and lay crudity is given full rein because jealousy

of lawyers and suspicion of legal methods preclude reliance upon the lawyers by whose experience it should be guided and to whose judgment matters of draftsmanship should be submitted.

Last, but far from least, the teacher of law should consider or reconsider the attitude of his teaching, of the tradition which he teaches, and of courts and bar toward the purposes and policies of modern law-making—the attitude of indifference which has prevailed in the immediate past toward the social ends to which law and laws are but means. I have discussed this matter at length on another occasion. Moreover, I suspect that our training qualifies us less and we shall have more to unlearn here than at either of the two points already spoken of. It is enough to say here that we teach thoroughly common-law method. We teach thoroughly common-law thinking. On the whole we teach thoroughly the principles of the main departments of the common law. Thus we fit men well for the daily contests of a forum in which the common law obtains. But this method, this thinking, these principles, are not those of the law-making of today. Hence our teaching is not unlikely to put the trained lawyer wholly out of sympathy with the most vital matters in the present law. If lawyers are to be of service to the community as well as to clients, teaching of law must take account of this. It is idle to trust wholly to the colleges, though no doubt much may be done by suitable preliminary education. For a sound knowledge of law is a prerequisite to study of jurisprudence in any of its forms, and nowhere more clearly than in the newest form of sociological jurisprudence. Socialization of our legal tradition is as inevitable as were the successive liberalizations in the past by equity, by the law merchant, and by legislative reform. Surely it is not our part to be idle spectators, or to be critical spectators of the sort who merely record and sum up the results.

In conclusion, let me make it clear that I do not urge that we overhaul our law-school curricula over night. Nor do I urge that we add new courses to our curricula already over-burdened for the time allowed. I would urge rather a progress in our thinking and thence in time in our teaching; a study of system of the law as a whole and a fitting of the principles established by enacted law into the system; a study of the relations of the

traditional and the imperative elements of law and working out of better doctrines with respect thereto, and of theories more in accord with the conditions of a period of legislation and the demands of social progress; and finally a study of the principles and policy of modern law-making, of the purposes and ends of law today as a means of social progress—all these in the same spirit and with the same zeal wherewith we have studied the principles of the common law, discovered the spirit of our legal tradition and wrought system in particular departments of the common law in the past. When we have done this studying and have achieved results along these lines in the daily battle of wits in the classroom with respect to our courses as they now stand, we may be ready to add new courses or to rearrange curricula.

If the ambition of the teacher of law were no more than to master the rules that once obtained as law, to derive from them legal conceptions and principles and develop their potential content logically, and to spend his days expounding them as a fixed ideal system, if he did not wish, with Langdell, that he had lived in the days of the Plantagenets, he might at least wish that the law remain stationary as it stood a third of a century ago. Indeed the practical end of his teaching would be to hold it stationary, so far as law may be held stationary; and in so far as he succeeded, he would but bring about a continually widening gulf between the law in the books and the law in action. But if he has a further ambition of being able to point to the work of his hands in the immemorial and yet freshly growing fabric of our common law, an age that promises to rival the age of Coke and to surpass the age of Mansfield as a constructive epoch in legal history invites labor along new lines. The historical school made law-teaching a force for unity, for system, for a reasoned body of principles in each department of the law. Its work is done. But the possibilities of law-teaching as a force for unity, for system, for reason are not spent. These are not to be attained by holding our taught tradition fast to the well-worn path and fighting an obstinate retreat against development in new directions. If taught law is tough law, it may also be living law. Let us bestir ourselves to the end that its toughness be that of living tissue, not that of dead fibre.

THE PLACE OF EQUITY IN OUR LEGAL SYSTEM.

BY

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"What is Equity?" As a teacher of this subject, I find myself confronted with this question at the opening of each college year. As I seek to answer it with satisfaction both to my students and to myself, I am met with another like unto it: "Why do we teach Equity as a subject by itself?" It is to the problems raised by these questions that I would direct your attention this evening. Perhaps what I shall have to say will deal more with the place of equity in the law school curriculum than with its place in our legal system, but in considering the matter it will be found that the two are so closely related that the one cannot be intelligently discussed without the other.

In his lectures upon Equity, the late Mr. Maitland says:

"Suppose that we ask the question: What is Equity? We can only answer it by giving some short account of certain courts of justice which were abolished over thirty years ago. In the year 1875 we might have said 'Equity is that body of rules which is administered only by those courts which are known as Courts of Equity.' The definition of course would not have been very satisfactory, but now-a-days we are cut off even from this unsatisfactory definition. We have no longer any courts which are merely courts of equity. Thus we are driven to say that equity now is that body of rules administered by our English courts of justice which, were it not for the operation of the Judicature Acts, would be administered only by those courts which would be known as Courts of Equity."

If in this passage we substitute the word "American" for "English" and the phrase "Code of Civil Procedure" for "Judicature Act," his remarks apply equally to a very large number of our American states. He continues:

"In no general terms can we describe either the field of equity or the distinctive character of equitable rules. Of course we

can make a catalogue of equitable rules, and we can sometimes point to an institution, such as the trust strictly so called, which is purely equitable, but we can make no generalization." . . .

"I do not think that any one has expounded or ever will expound equity as a single, consistent system, an articulate body of law. It is a collection of appendixes between which there is no very close connexion. If we suppose all our law put into systematic order, we shall find that some chapters of it have been copiously glossed by equity, while others are quite free from equitable glosses." . . .

"When some years ago the new scheme for our Tripos was settled, we said that candidates for the second part were to study the English Law of Real and Personal Property and the English Law of Contract and Tort, with the equitable principles applicable to these subjects. It was a question whether we ought not to have mentioned equity as a separate subject. I have no doubt however that we did the right thing. To have acknowledged the existence of equity as a system distinct from law would in my opinion have been a belated, a reactionary measure. I think, for example, that you ought to learn the many equitable modifications of the law of contract, not as part of equity, but as part, and a very important part, of our modern English law of contract."

I need not tell you that an examination of the announcements of our American law schools reveals no signs of any disposition to adopt Mr. Maitland's view. We are, in his phraseology, acknowledging the existence of equity as a system distinct from law and so are following—if he be right—a "belated and reactionary" course of procedure. Take up the catalogue of almost any American law school and what do you find? As a typical example—selected because it is typical and in no respect whatever exceptional or peculiar—let us read from the catalogue of the law school of Stanford University.

EQUITY I.—Historical development of equity; relation between equitable rights and powers and legal rights and powers; general principles relating to jurisdiction, procedure and remedies specific performance of contracts with special emphasis on the relation between vendors and purchasers of realty; introduction to mortgages; bills for an account; specific reparation and prevention of torts, including waste, trespass, nuisance, disturbance of easements, infringement of patents and copyrights, interference with business relations.

EQUITY II.—*Trusts.*

EQUITY III.—Interpleader; bills of peace and *quia timet*; cancellation of contract; clouds on title; perpetuation of testimony; rights of future enjoyment; reformation and rescission of contract; mistake, fraud, misrepresentation; duress and undue influence.

My thesis this evening is, that Mr. Maitland is right and that our American treatment of equity is belated and reactionary because it is unscientific, both from the point of view of analysis and from that of educational expediency.

Let me say first of all that I am heartily in accord with that great master of Equity, the late James Barr Ames, when he says:

"Time has strengthened the conviction of the present writer that the principle 'Equity acts upon the person' is, and always has been, the key to the mastery of equity. The difference between the judgment at law and the decree in equity goes to the root of the matter. The law regards chiefly the right of the plaintiff, and gives judgment that he recover the land, debt, or damages because they are his. Equity lays the stress upon the duty of the defendant, and decrees that he do or refrain from doing a certain thing because he ought to act or forbear. It is because of this emphasis upon the defendant's duty that equity is so much more ethical than law."

Yet, although the difference in procedure was and is of the greatest importance, it may be and, I think, often is greatly over-emphasized. Procedure *in personam* may be and frequently is used to protect and enforce rights *in rem* as well as rights *in personam*, and the nature of equitable rights is not necessarily different from that of legal rights merely because a different remedy for their actual or threatened violation is offered.

Let us now examine the principal subjects usually discussed in books or courses upon "Equity," or "Equity Jurisdiction" as it is so often called, with a view to locating each in its proper place both in a scientific arrangement of our law and in a properly constructed curriculum for a law school. I need hardly say that my treatment must, if I am to keep within the limits of the time at my command, necessarily be brief, sketchy and incomplete—suggestive rather than exhaustive.

1. TRUSTS.

"Of all the exploits of Equity," says Mr. Maitland, "the largest and most important is the invention and development of the Trust:

"It is an 'institute' of great elasticity and generality; as elastic, as general as contract."

"This perhaps forms the most distinctive achievement of English lawyers. It seems to us almost essential to civilization, and yet there is nothing quite like it in foreign law."

To this we shall all agree, and it is of course quite clear that we must all acknowledge that the law of trusts is a distinct system, a "single, consistent system," an "articulate body" of substantive law, and not a mere "appendix" or "gloss" to some portion of the common law. It must therefore always continue to be treated and discussed as a separate subject, both in treatises upon our law and in the class room. In it, more clearly than in any other branch of equity perhaps, do we see revealed both the strength and the weaknesses of the equity procedure as well as the development of the ethical character of equity, the retention of a larger discretion by the chancellor to do what is "equitable" than any mere common law court possessed, and the power of equity to act as the great legal reformer during that period of English history when, although the common law had shown itself incapable of so changing as to meet the needs of society, the method of making law by statute had hardly begun. The history of the "use" and the development of the modern trust from it—the gradual transformation of the merely personal right of the *cestui que use* into the so-called "equitable interest," so that it seems to be almost equivalent to a *dominium* or ownership—must ever remain one of the most fascinating and at the same time important subjects in our system of law. Yes, the law of trusts is, and always must be treated as, the great contribution of equity to the substantive law, and must of course be studied as such.

2 TORTS.

A second part of "Equity" as we now expound it deals with the "specific reparation for and prevention of torts, including

waste, trespass, nuisance, disturbance of easements, infringements of patents and copyrights, interference with business relations," etc. Where in a scientific arrangement of the law should the discussion of these subjects come? With one or two relatively unimportant exceptions (such as, for example, in the case of equitable waste), "equity" here is merely offering an additional and more adequate remedy for the protection of legal rights of property, tangible or intangible. Some one is threatening to invade my common law rights in land or chattels, my right to personal security or good name, or my right to carry on business free from unlawful interference. Actual invasions of these common law rights are redressed primarily by the appropriate common law actions; preventive relief to protect these same rights from threatened invasion is obtainable only "in equity," simply because—for reasons purely historical—"equity" and not "law" developed a procedure adapted to give that kind of relief. Today in a majority of our states the same court administers both remedies. It is my contention that the subjects dealt with in this branch of "equity" should be placed in their appropriate setting; that the question, whether a given legal right is protected from actual or threatened violation by the use of the equitable remedy of injunction or decree for specific reparation, should be discussed and answered in connection with the discussion of the nature of the particular right and of the methods by which it can be invaded. Whether this can be better done in the course on Property, where we are engaged more especially in emphasizing the right—as I think it can be in the case of such a subject as "Waste"—or should be left for the course in Torts, where our attention is directed more especially to the act which violates the right—as in the case of trespass—is a subject that need not detain us here. But, taking "Waste" as an example, my proposition is, that we should discuss the whole subject together: What is waste, legal or equitable; the nature of the right invaded and the acts which invade it; the remedies for an actual or threatened invasion, whether they are common law actions of waste, on the case, trover or assumpsit,

or bills in equity for specific prevention of threatened waste and accounting for waste already committed.

Consider the questions of infringements of patents and copyrights. No one would dream of writing a treatise or giving a course on "Patents" or "Copyrights" which ended with a discussion of the nature of the rights of patentee or owner of copyright and the common law remedies for their violation, leaving the inquiring student to learn elsewhere about injunctions to stop further infringements and accounting in equity for the profits from infringements already committed—say in a treatise on "Equity" dealing with everything from specific performance of contracts to mortgages and bills of interpleader. And yet in many schools something nearly as bad is done. In the course on "Equity" we give the student, who knows nothing about patent or copyright law and the common law side of the subject, a brief and fragmentary treatment of equitable remedies for infringements of patents and copyrights, without having laid any foundation for an understanding of it. That this is not a scientific procedure seems obvious and not to require discussion.

3. SPECIFIC PERFORMANCE.

Turning to another portion of "Equity," as usually taught, we find "specific performance of contracts," usually given in the second year. Let us glance back to the first year's work in contracts and examine its contents. We find, first, the formation of contracts—offer and acceptance; consideration. With, perhaps, some slight exceptions, this part of the law of contracts is quite free from equitable glosses, so all is well.

We find, second, the "performance of contracts," as one of our leading casebooks puts it, or "the operation of contracts," as another has it. Under this (dealing only with the most important topics) we find the subject of conditions in contracts, *i. e.*, given a contract, what in a court of common law are the legal consequences attached to that state of facts? What are the rights, duties and liabilities *at law* of the parties? What must each party do in order to put the other in default? Ask the in-

structor about the rights, duties and liabilities *in equity* of the same parties under the same state of facts, and he is silent—that belongs to the course on specific performance next year. And yet this chapter of our law has, in Maitland's happily chosen phrase, been "copiously glossed by equity." I can do no more than hastily choose at random two or three typical examples.

A contract between A and B says that A is to do a certain act on January 1. He does it January 2 and 10 or perhaps later. Was "time of the essence" in a court of law, or rather, if he does it later can he acquire a right to sue in special assumpsit for breach of contract if the other refuses to go on because of the delay? How would it be if the contract were one of which equity would decree specific performance and the action were in equity? Would willingness to perform at the later date be sufficient? Did "equity" take a different view from "law" upon this point? If so, why? Need we relegate the discussion of this to another book or postpone it until another year, or is it not the sensible thing to dispose of the whole problem once for all? What rational objection is there to so natural a procedure?

Consider another example—a bilateral contract between Doe and Roe, for the purchase and sale of a house and lot, performance on both sides to take place one month from date. An accidental fire destroys the house. Doe offers a deed of the empty lot; Roe refuses to accept it and pay the purchase price. Doe sues in assumpsit; can he recover? This we settle in the course on contracts under the heading of "conditions." How would it be if Doe filed a bill for specific performance? At once the instructor throws up his hands—that is not a part of the law of contracts; that is a part of "equity." Why not proceed at once to examine the equitable as well as the legal rights of the parties arising out of this one state of facts, and, by contrasting the different answers—if different they be—and the reasons for each, bring out more clearly because of the contrast the difference between the two? Again: In the same contract, suppose, instead of there being an accidental fire, Doe conveys the

house and lot to Smith, but obtains a reconveyance before the time set for performance. What are the legal rights of the parties at the different stages of this transaction? What are their equitable rights? Is it not common sense to finish our discussion once for all? Once the student has mastered the real significance of the phrase that "equity acts *in personam*" and has learned in the course on trusts the real nature of "equitable interests" in property, he is prepared to handle the problems thus raised in specific performance.

Permit one more illustration from the field of contracts before I pass on to the fourth and last important field of equity which I shall discuss at any length.

In the course on contracts we discuss with our students "assignments" of contract rights. This discussion turns out to be difficult for a student who knows no equity to understand. In addition the instructor must postpone until the next year—usually leaving it for another instructor, in fact—the answer of equity as to the assignment of the right to specific enforcement of a contract and the reasons for the entirely different treatment of the problem by equity.

An examination of the chapter on "Discharge of Contracts" in any good casebook will show that the present state of our law in most states cannot be understood until one knows the views of the courts of common law, the views of the courts of equity, and those of courts operating under the reformed procedure where courts of equity and law are fused into one. Yet, as we discuss contracts as a purely legal subject, the equity side is treated inadequately and in a fragmentary way, and is usually never treated adequately anywhere else.

My proposition would be, then, that the assignment, performance and discharge of contracts at law and in equity, should constitute one course, given preferably in the second year, and so arranged as to time that the course on trusts would either precede or accompany it—preferably the former. By contrasting and comparing the answers of law and equity, I am firmly convinced that not only would the points of view of each be more clearly brought out, but the fundamental things in our system

of law as a whole would be more firmly fixed in the minds of our students. Especially important it seems to me is such a method of handling the subject for students who are to practice in code states, where one court is empowered to administer both legal and equitable remedies—enforcing its judgment under the statutes by procedure *in rem*, if that be desirable, whether the right enforced be legal or equitable.

In one of the most widely used of the casebooks on equity to-day, there is a considerable collection of cases on "restrictive covenants" on property, covenants that is, that do not "run with the land" at law, but are held to be binding in equity upon persons in possession of the land unless they are *bona fide* purchasers for value. Here again it seems to me that a portion of what is really the law of property is taken out of its natural setting. A proper arrangement, I venture to suggest, would require the treatment of this subject in the course on property, in connection with covenants that run with the land at law, and easements. I believe this is done in many schools in the course on property, with the result that the equity course unnecessarily repeats ground already covered elsewhere.

4. RESTITUTION.

Another part of "equity" as usually discussed relates to the subject of the "reformation and rescission" of contracts, deeds, and other instruments. In a separate course we find set forth the law governing so-called "quasi-contractual" obligations—the "contracts implied in law" of the older generation of lawyers. It was indeed a great service that men like Ames and Keener did in detaching the subject of quasi-contracts from contracts and so revealing its real nature, but I am convinced that we shall not permanently treat it as a separate subject for the reason that, as I shall attempt to show in what follows, it is merely the application by a court of law of a far-reaching principle of equity. Even a superficial comparison of the contents of a course on "reformation and rescission" with those of a course on "quasi-contracts" will reveal the truth of my assertion that we are dealing with two phases of one problem—the recognition

of the principle that one man shall not unjustly enrich himself at the expense of another, which lies of course at the basis of all constructive trusts. Consider the subjects in the equity course: they deal with the specific enforcement in equity of an equitable right to restitution—the surrender of rights which were obtained because of mistake, by fraud, misrepresentation, duress, undue influence, or in pursuance of an illegal agreement, etc. On the other hand, a glance at quasi-contracts at once reveals that we are dealing very largely with the very same topics, only now the question relates to the enforcement of the duty—really an equitable duty—to make restitution by means of a money judgment obtained in an action at law. A moment's observation reveals the same headings, *e. g.*, money is paid or property is conveyed under a mutual or unilateral mistake of fact or law: Is there a duty to make restitution, to return the money or property? If so, can it be enforced only by an action at law of general assumpsit, leading to a judgment for money damages, or will a bill in equity lie to compel specific restitution? How do we today deal with this problem? If money is paid, we discuss the problem in quasi-contracts. If real estate is conveyed under precisely similar conditions, we discuss it in "equity." Nor is this all—our practice, if it be logically carried out, is even worse. If the property be personal property not money—say a horse—or real estate, if the instructor in quasi-contracts does his whole duty, he must ask whether a count at law for goods or land sold and delivered will lie. But he will then stop and leave the question on specific restitution of the horse or other property to be worked out in the course on "equity." The result is that the teacher of equity has to repeat over again the whole discussion of what are the kinds of mistake which give rise to a right to restitution—a waste of valuable time. Is it not time to recognize that we have here to do with only one right—the right to restitution—and that action of assumpsit at law and bill for specific restitution in equity are only different remedies for its protection? If indeed the common law differ with equity in some respect as to the kinds of mistake that give rise to this right to restitution, we shall discover that fact—if it be a fact—and the reason for

its existence only by comparing and contrasting the two views. Look at the case again concretely: Owing to a mutual mistake of fact, say as to the existence of a debt, Doe delivers to Roe in payment of the supposed debt a horse. What are Doe's rights? They may possibly be at least: (1) A right to rescind as in the case of personal property obtained by fraud, and so to sue in trover or statutory replevin after a demand for return or perhaps without demand; (2) assumpsit for goods sold and delivered; (3) bill in equity for specific restitution. Shall we discuss the second problem in quasi-contracts, the third in equity, and let the first (which usually is not discussed at all) take care of itself? Shall we not go over all these possibilities with the student once and for all just as the lawyer has to do when his client comes to his office with a similar statement of facts? It is surely not necessary to go over in detail the various well-known topics—fraud, misrepresentation, duress, illegality, and all the rest—in order to see that in each we are dealing with a right to restitution, enforceable either at law by an action of assumpsit or in equity in a suit for specific restitution, and that the sole distinction between quasi-contracts and equity relates to the remedy and not at all to the right.

By consolidating the course on quasi-contracts with the appropriate part of equity, making really a course on the enforcement both at law and in equity of a large group of constructive trusts, at least one-fourth of the time now devoted to these subjects will, I am convinced after a careful estimate, be left free for other work. It will doubtless be found, I may say in passing, that some portions of quasi-contracts should be dealt with in the course on trusts. If, for example, that course covers the right to follow in equity the proceeds of misappropriated property even where the misappropriation is a tort, surely an adequate treatment would include "waiver of tort," *i. e.*, the right to sue in assumpsit for the return, not of the specific proceeds, but of an equivalent sum where money or its equivalent was received.

In many fields we have already done this work of bringing together the discussion of legal and equitable principles and remedies as they relate to a particular situation, as for example,

in mortgages and in the law of persons. In the latter no one thinks of discussing the property rights of the married woman at common law merely, leaving it for the course in equity to describe the equitable principles governing the situation, and I doubt not that this is equally true of the law relating to infants—at least, if it is not, it ought to be.

The task of thus redistributing into their proper places these portions of what we call equity, or as in the case of quasi-contracts, of putting certain common law subjects into the appropriate equity course, is one of no small difficulty. It cannot adequately be done in a hurry or by one man, but will require the best thoughts and efforts of at least a whole faculty working in co-operation for a considerable period. It means ultimately the preparation of new casebooks with the necessary re-working of the entire field from a new but at the same time fascinating point of view. One problem to be settled will be as to the best method of introducing the student to equity and its method of procedure. Whether this should be done in connection with some subject, such as “uses” in the property course, or, as I think more likely, in a course dealing historically with the courts of common law and equity, their jurisdiction and characteristic modes of procedure, and the relations of them all to each other—all this will have to be worked out, but it is not within the scope of my paper this evening to attempt the solution of all the difficult problems involved in this re-arrangement of the courses in equity and related subjects.

But, I hear some exclaim, shall we not lose our equity by so doing? Will the characteristic features of equity not be lost sight of by this division of the subject? That will all depend upon the skill with which it is done. Let us see what the distinctive things about equity are that might possibly be lost sight of in this process. First, equity acts *in personam*. That surely would never be forgotten, and in fact the constant contrasting of the legal with the equitable remedy as applicable to the same state of facts would serve most emphatically to emphasize this. Second, equity retains for the judge or court a residuum of discretion greater than that belonging to the common law judge. As Lord Eldon said (in *Gee vs. Pritchard*, 2

Swanston, 402), the doctrines of equity "ought to be as well settled and as uniform *almost* as those of the common law, laying down fixed principles, but taking care that they are to be applied according to the circumstances of each case." This discretionary element, the less hard and fast application of a rule as a rule, the taking into consideration of the "balance of convenience" must at all events be preserved. But, taking a concrete case, will not the comparison of the legal rule that, given a nuisance, an action at law for damages will always lie, with the refusal of equity to enjoin the farther maintenance of the nuisance unless the "balance of convenience" is in favor of the injunction—will not, I say, the comparison of these two things constantly over and over again serve to emphasize and so to preserve this feature of equity?

A third characteristic feature of equity is that it has been the great legal reformer; it is more ethical than the law. Well, will not the constant contrasting of the two systems—principle by principle, rule by rule—the less ethical view of the common law upon some particular topic with the more ethical view of the court of equity upon the same topic—will all this not serve to emphasize this feature of equity more clearly than ever before? In the hands of a skilful teacher it seems to me that it would. As our learned Chairman has so well pointed out in his essay upon "The Decadence of Equity" (5 Columbia Law Review, 20), the consolidation of courts of law and equity into one, with the abolition of differences in pleading, has led to a tendency to unduly legalize equity. But, as he also says, the remedy is not "to condemn the reform which has given us one procedure instead of two. . . . To declaim against the fusion of law and equity today is . . . futile. . . . The moral, I take it, is that we must be vigilant. . . . We must fight for equity." So, I should say, the fusion of law and equity in the legal curriculum in the manner suggested will not, if we are vigilant, if we "fight for equity," result in an undue legalization of equitable principles and rules, but rather, in the hands of a master of the subject would serve to emphasize and so to preserve those characteristic features of "equity" which must be preserved if our system of law is to meet the needs of society in the future.

PRACTICE COURTS.

BY

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If Socrates had continued in life from his day to our own, and had kept up his search for the perfect proficient in practical arts of any kind, doubtless he would still have to confess his failure. At all events, it is not at all likely that among the professed law teachers assembled here, any one would offer himself as such an absolute proficient, complete and irreproachable, without fault, failing, or blemish, to serve as a model as well as preceptor in the training of our students for the practice of their profession.

Generally we teach the law and not its application. If the point lies in the application thereof, there will be a lifetime of application to perfect the student, while we must, in a scant three years, of thirty-six weeks each, make sure that he is informed as to the precepts.

Whether we admit it or not, such is really the point of view of most of us. It has its justification in the fact that the effective way to learn to do anything, is to set about doing it, and the practice is bound to come. The law school lad who starts out to earn his living by the application of what he has learned, will presently not lack experience, and we are prone to say, let us have him well filled with the doctrines of substantive law, and the practice will take care of itself. Somewhat rarely we say this outright. More often we act upon it without saying it, or while saying the opposite, with the result that our doctrines of substantive law are like the Latin grammar that too many of us once learned, and carried as a dead load in our heads for examination purposes only, and without finding it a practical help towards the real use or comprehension of the Latin language. For how many a student has not experience shown that excessive

addiction to the grammar too often completely blocks the way into a use of the language. Such a fear of going wrong, and such an apparent impossibility of getting things right is created, that all movement, or disposition towards making effective use of his knowledge is completely destroyed. The language is condemned to remain for all time to that student a mere cipher, intelligible only when by laborious application of his dictionary, used according to some of the simpler of the grammar rules with which he is loaded, he has substituted an English combination of words for those given him in the cipher tongue. Of course, oral use of such a cipher is out of the question.

We run the risk of producing a similar state of mind on the part of our students with the complicated rules of law. Of course these rules constitute a system, and in order to work together, must be somewhat consistent. The conscious application of them all at once, however, involves having them all at once in the mind, and that is plainly an impossibility. If we get too large a quantity of those rules accumulated in our minds, in advance of the attempt to apply them, we shall certainly produce that "*diffidentia*" which the second section of the first title of Justinian's Institutes warns us against, and declares it is the chief purpose of that treatise to enable the student to avoid.

If we turn somewhat early to practice and get the blessed aid of habit to show us how to go ahead, by merely following mechanical formula, up to the point where a controversy arises, the attention can be given to the single question there presented, and it can be dealt with easily and successfully, if only we are on the right side of the question of fact; and thus we escape that "*diffidentia*" which would persuade us that to successfully apply any part of the law, we must keep the whole system in mind.

These rules of substantive law, moreover, which our courts recognize, and our students must get from us, where did they first obtain authoritative recognition and expression? Professor Maitland and Sir Henry Maine were two of the same trade who seldom enough agreed, but Professor Maitland, at the beginning of his brief series of lectures on the common law actions, quotes with strong approval Sir Henry's declaration: "So great is

the ascendancy of the law of actions in the infancy of courts of justice, that substantive law has at first the look of being gradually secreted in the interstices of procedure, and the early lawyer can only see the law in the envelope of its technical form." This is only Sir Henry's way of saying that in the early days the only law men knew was the law of practice, and the lawyer who did not know that, knew none.

Beyond question, men began by having disputes. The requirements of their own interests, and those of the community to which both parties belonged, produced an adjusting tribunal. The tribunal, led thereto by the greater ease and comfort of a beaten path, adopted forms of procedure, and adopted them with a rigidity of which the modern civilized man has slight conception. The same tendency to follow a beaten track, by means of which both men and horses can be effectively broken in to useful employment, led the tribunal to follow its own precedents, already deeply moulded by formalism, and so by persistent repetition of those precedents, rules of substantive law emerged.

The comprehension of any such result of evolutionary processes can be reached only through following the history of those processes. No man will comprehend the rules of our law except by following the steps of its growth. This is none the less true when we find it disguised as an act of legislation. The latter is apparently something consciously made, a mechanism adopted to satisfy some given purpose. Where we find the law taking this shape, our application of history is to the elements composing it, to the materials out of which it is made, and to the will and intelligence putting them together. It is true a mere mechanism has no history. It has a purpose; it was put together out of materials whose life, if they had any, was destroyed so far as that life tended towards independence, and so to interfere with the mechanism's purpose. So long as the combination answers such purpose, it holds together. Whenever from inability to serve, or from lack of further need of the service, it is no longer desirable for that purpose, it is more or less promptly broken up into its component elements. The organic elements which went into it, and the intelligence which devised and controlled it, had a

history, because they had life and grew. It had none, because its life was destroyed to serve its end, and its existence from the beginning was simply a process of inevitable dissolution. Something of the same sort happens when law ceases to be a result of unconscious adaptation and spontaneous growth, and becomes a matter of conscious construction. The power to give life is not in our hands in law-making any more than it is in the producing of other mechanisms. To take out of the social elements around us the necessary parts to form a new institution, or set of institutions, is to stop that far the spontaneous and hitherto free activity of those human elements, and to require of them henceforth to act as machines. They can only do this by acquiring the necessary modification of their habits, and habits result from practice. That practice must come at the right point, and be directed to the creation of the correct habit, and the intellectual process which lies at the base of such action as of all mechanism, is analysis.

It is just as certain that thorough analysis is necessary to effective practice as it is that complete history is necessary for complete comprehension. To understand this complex growth, we must have mentally followed its development; to make use of it we must have a thorough analysis of it, and get familiar with its parts as parts for use. We must be able to make an instant and successful distinction between the essential and the unessential, the vital and the incidental portions of its activity. Successful practice, we are told with sufficient frequency, grows out of elimination of all false movements. All the teachers of efficiency in all lines are agreed as to this, and our analysis must go far enough to enable us to use the right part at the right time, and to turn the attention to another one at the instant when the latter is called for. It is only by successful analysis, reduced to practical habits, that as complicated an operation, as the carrying forward of an action at law, is at all possible. The two processes, the historical synthesis for the sake of comprehension and co-ordination, and the analytical one, for purposes of immediate use, if rightly adjusted, mutually assist each other; either without the other will largely miss their special purpose.

The same practical lad who regards his Latin as a girl's study, and sees no hope of getting through it any direct connection with practical things, or of getting any such use of it as will be of advantage to him, through ordinary grammar study, is liable to achieve a means of communication with foreign-born play-mates earlier than any one else in the school. If he was forced to put Latin to some practical use, and acquired through such use a slight grip upon its vocabulary, the use of grammar and dictionary to open up and extend such knowledge would be at once apparent to him. He would no longer despise and hate such study, and there would be at least a possibility of some success with it.

The law student commencing his course has often no sufficient practical knowledge of the courts of this country, and of their actual working, to make general statements of legal precepts intelligible and convincing to him. In opening a general course on the common law system and its history for first-year students, I have usually started with an inquiry as to how many of them had ever actually attended the trial of an action in any court of law. I have been surprised at the frequency of the answer: "I have not." They are a living testimony to the truth mentioned by Sir Henry Maine that courts and compulsion, where they are most strikingly successful, push themselves far into the background by creating a law-abiding habit, which does away with the need of their intervention. "The great difficulty of the modern analytical jurists, Bentham and Austin, has been to recover from its hiding place the force which gives its sanction to law. They had to show that it had not disappeared, and could not disappear, but was only latent because transformed into law-abiding habit." If these lads are to be shown convincingly the substantive rules of law, they must be initiated speedily into the practical application of them. They must be made conscious of the existence of those rules which they have all their lives been unconsciously obeying. If we are to have success in dealing with them, we must take them back to the situation described as that of the East Indian law student, for whom "the law and the court have an importance which may be measured by the cir-

cumstance that in many parts of India youth learn the text of the penal and procedure code, in daily lessons, as did the young Roman of Cicero's time, the Cantilena of the Twelve Tables."

Another consideration in favor of energetic use of our practice courts is the proposition that some of the best-known and most-used distinctions in law are matters of degree and not of kind, and must be learned by experience, because they do not result from definition. What is the test of the constitutionality of an act of legislation attempting to regulate uses of property? Take for instance the question lately pending in the Supreme Court of the United States, as to the constitutionality of our Lincoln, Nebraska, ordinance for dollar gas. That court refused to pass upon the questions at all until further evidence should be produced. The judges had the ordinance before them; they had the federal constitution in reliance upon which the gas company had appealed. Was the ordinance a violation of the Fourteenth Amendment? Not unless the rate was too low to give reasonable compensation for the use of the gas company's property invested in the business. Was the ordinance regulation, or confiscation? The court said that under the testimony already taken it could not tell, and sent the matter back for the obtaining of more definite information, as to the relative size of the compensation allowed and of the necessary expense bill for the furnishing of the gas. This is, evidently, a relation of pure quantity calling only for skill in ascertaining and measuring expense.

In any close question of constitutional law, have we anything more? Is it not always a question of the degree of departure from the constitutional standard which the legislative act in question makes, whether this departure is broad enough to be distinct and indisputable? The standard, itself, is adjusted to varying public needs, or, perhaps, it should be said, to varying perceptions of public needs. The limit of the state's authority to enact legislation interfering with the use of constitutionally guaranteed property is the case involving and supporting the latest stretch of such authority, modified by any new perceptions of the need, or lack of need, of so much, or of more, authority on the part of the state, in order to meet real public wants.

Take another absolutely technical question, free from any taint of the politics with which our constitutional cases are reproached, the application of the writ of injunction to cases of trespass or nuisance. Is there any difference in the nature of the wrong in those cases in which the writ is allowed, from those in which it is refused? Is it not simply a quantitative question of the extent and seriousness of the threatened dangers. If that is not serious enough to warrant the injunction, then the threatened injury is not irreparable, and a remedy in damages with trial to a jury is the only one allowed you. To be sure we say in the one case that the injury is irreparable, and the other that it is not, but by a glance at the decided cases it will be shown that it is no question of absolute irreparability, but merely one of degree, and that degree is to be learned from familiarity with cases and their facts in practice, precisely as the famous *chef* learns to season his soups.

Take the whole question, indeed, of the existence or non-existence of the remedy in equity. It is, we tell inquirers, a question of whether or not there is a remedy at law, or if there is, whether or not that remedy is adequate. That again is not an absolute inadequacy; it is merely a relative one, simply a matter of more or less. There is no room here for any logical distinction of kinds. Whether or not your own, or your adversary's case, really calls for equitable consideration, is to be determined, if the matter is really close enough to the line for experts to differ about it, in just the same manner in which experts in another field determine whether or not the sample of wheat presented for testing shall be graded "Number 2." The one is as easy as the other to settle by mere definition and attempted distinctions of kind.

Of course we deal with plenty of matters in which the distinction of kind applies. The empiricist who knows no such general distinction, and applies none but degree tests, gets his scorn of the theorician paid back to him when he tries to apply his degree tests of experience to things so unlike as not to be thus comparable, not homogeneous enough to be subjected to any single measure. We are not without logical, as well as

quantitative, distinctions in law, and we must learn to apply both, and apply them with the rapidity and sureness, which only habit gives. It seems unnecessary to repeat that habit comes only from practice.

But it seems sufficient to leave the absolute necessity for some induction into practice to speak for itself. A technical school, which does not succeed in showing how to do something, would certainly seem to be "Hamlet," with the part of Hamlet omitted. If experience did not absolutely show the contrary, we would all say that there is no danger of the law teacher forgetting that his general rules of substantive law, not only arose out of the practice adopted in the tribunals, but were formed and organized for the sake of such practice, in order to perfect the work of those tribunals, and have no other excuse for their existence. Any instructor on any subject must have learned at the very beginning of his experience, that while ideas can be conveyed and emotions aroused, by indirect methods and suggestion, habits are only reached by direct insistence and persistence, aimed immediately at the sought for proficiency. In other words, where we want practice, we want practice, and not something about practice, and we want it as absolute an imitation of the genuine article as can by any possibility be obtained, except in those cases where it can be made better and more effective for our purpose by some departure from the actual model.

It is believed that genuine improvement in our schools in this respect will commence as soon as a deeper appreciation of the possibilities of the work in this direction is reached by the instructors. To a large extent, work along this line in the schools of the Association seems to be left to the initiative of the student. He is invited to form law clubs, and by almost wholly voluntary efforts through them to get familiarity with court practice, somewhat after the manner of the voluntary literary and debating societies of the colleges of arts, which were stronger in those colleges in years gone by than they are now. In those societies energetic and ambitious students did much to qualify themselves for the actual work of the hustings and the forum. Doubtless, such voluntary work is valuable in the law school, and for that

portion of the students who thus voluntarily engage in it with energy, it might easily prove more valuable than would any required exercises. The broadening and extending of the courses in the arts, the enlarging of classes, and the multiplying of interests for the student in those institutions has undoubtedly weakened the literary societies, just as the broadening and strengthening of the curriculum of the law school has too often drawn attention away from the practice courts.

At our own institution the practice court work was at first left to voluntary associations, assisted more or less by the presence and encouragement of the instructors. It could be somewhat safely so permitted, because the school in its beginning was organized by the university authorities as a successor to a voluntary association of students from the law offices of the state capitol, who had organized themselves for united legal study. The regents of the university were authorized to form a law college, and did so, with a view to absorbing this association; and it was absorbed. Later, the plan of organizing courts in imitation of the actual Nebraska courts, with students for judges, and making it necessary to successful graduation that a certain number of cases be carried through these imitation courts, was adopted. Instructors were supposed to be in attendance at all sessions, and the lawyers conducting cases were at liberty to draft the instructor in the topic involved by their case, if they saw fit, and require his attendance. Two years ago, the plan was again changed by the substitution of instructors for students as judges of the *nisi prius* courts. A law professor was, also, placed at the head of supreme court, assisted by the requisite number of students, for the hearing of appeals.

These steps were found necessary in order to secure the performance by the whole body of students of the previous nominal requirements of such work. With the advent of instructors as *nisi prius* judges, the attendance of the first year men as jurors and witnesses, nominally compulsory before, became so in fact. Under this plan the work shows an improvement, but there are still too many students who do it perfunctorily, or find grounds for avoiding it altogether. The requirement at the present is,

that one case, at least, shall be taken by each student of the second year class, through all the courts, commencing with justice of the peace, and proceeding by error or appeal through the district court to the supreme court, and that each third year student shall take at least two cases through the district court, and one of them at least, by way of appeal, to the supreme court. Associations of not more than two partners are allowed, and each partner is given credit for cases conducted by the firm. Not infrequently an intelligent man and a good student frankly says that he has no intention of engaging in actual practice of the legal profession, and has only taken the course for purposes of business and citizenship, and that he does not see why he should be required to spend his time in exercises preparatory for such practice. Students with this object are not uncommon with us, and I imagine not much less so in other institutions, if one may judge by the percentages of their graduates who actually do get into practice.

In Nebraska, during eight years that I have been in the University Law School, about fifty per cent of the matriculated law students have completed the course, and of this fifty per cent, probably forty per cent become and remain practitioners. The others either do not attempt to practise, or do not persist long enough to get fairly into the work. In this situation what should be done with those who do not intend to even attempt practice? In most cases they should not be urged to engage in it. They can do better. Sometimes, however, it is a clear case of the "*diffidentia*," which the Institutes talk about, and Erskine's situation of dire need on the part of his family is not there to overcome it. It might be avoided or neutralized by a well-directed system of practice court exercises, and sometimes it is. I have known at least two cases where men asked excuse from practice court work, on the ground of non-intention to practise, were urged into it, as being a valuable discipline, and one which they had undertaken, with full knowledge in taking up the law course, and also, on the ground that whether they became practitioners or not, they would surely become citizens, subject both to jury service, and to actions at law, at the hands of their fellows, and would certainly find use for all the knowledge of court

procedure they could possibly acquire. They took up the work with such interest that the game became attractive enough to make practitioners out of them.

Those who have already professional ambition ordinarily require no urging to take up this line of work. They usually do so with energy. In every recent graduating class there have been several men with much more than the required practice court work to their credit. There would have been still more of such men, except for lack of time on the part of the instructors. It is only necessary to convince them that it helps towards the attainment of their object, and show them that it is an advantageous employment of time and energy. Whatever the experience of others has been, among those under my observation who have engaged in this mimic struggle, there has been no lack of interest in it, or of concern about its outcome. A distinguished gentleman in my own state, who attacked in the public press the whole plan of school training in their profession for lawyers, exhibited ignorance of the actual work of the schools, in no other respect so much as in representing that the moot court trials were invariably a farce, and so regarded and treated by all participants.

As a matter of fact, the rivalry of contestants at these hearings is often of the keenest. The desire to win is such that here, as in actual contests of the forum, the difficulty is to secure a fair compliance with the rules of the game. Men will continually try to get into the evidence matters which were not included within the limits of statements of testimony, furnished them. When convinced that the real issue is going against them, they will try as hard to raise a false one as any full-fledged advocate in an actual trial. To be sure, this sort of interest is confined to those, as before suggested, who aspire to be practitioners. Their interest in it shows that they recognize that it is a direct step towards the object of their ambition, and, so far, that the practice court goes towards its desired end.

That end is a plain one, if not easy of attainment. It is to get rid of the "diffidentia" of the young practitioner, and make his admitted knowledge of rules of substantive law immediately

available to himself and to clients, in actual contests of the forum. To this end the law school must organize the most perfect imitation of an actual court of justice, and of actual contests therein, over legal doctrines, and operative legal facts, that is practically possible for that school under its conditions. It must get this imitation court into actual and interesting operation.

I am not undertaking to say that there is only one way to do this. I am not even undertaking to say that there is any way to do it with complete success. The actual administration of justice reaches only to such an approximation of complete success as is better than continued fighting. The imitation court will be only an approximation to the actual one, but if it is avowedly an imitation of the neighboring real one, its frank, young critics in the student body, can be depended upon to recognize and indicate the particulars in which it most manifestly falls short. They can be relied upon to make comparisons with small charity for any marked shortcomings.

This seems of itself to be a sufficient reason for making the practice court as directly as possible in imitation of the real local one. The objection will come that we have students from different states going out when they have finished their course, to different systems of practice. Somewhat careful consideration of this suggestion leads to the conclusion that it is not a vital objection to organizing a school practice court, in the closest possible imitation of the local, actual courts, and following such local procedure. Talking a few days ago with a former student who has achieved distinction in practice in a distant western state, he declared his belief that the fundamental elements in practice are the same in all our states. Specific rules and forms of pleading vary somewhat, as the students of statutes on that subject, of course, know. They do not vary nearly as much, however, in real meaning and force as by their forms they seem to.

Everywhere in this country, court procedure is a product of analytical treatment of old common law and old equity practice, somewhat variously combined, but all intended to take away the unnecessary and unessential, and preserve only what is vital to

the vindication of rights. The general uniformity of our substantive law, which makes the decisions of any one of our jurisdictions persuasive, and as to new matters, frequently decisive authority in any other jurisdiction, has under it an even more pervasive uniformity in the principles of practice, as my far western friend declared. To be sure the use of many specific provisions of statutory origin as to particular points of practice, and especially the attempt to adopt complete codes of procedure, while declining to codify the body of law, has particularly emphasized among American lawyers of this generation, the distinction between adjective and substantive law. It has also tended to emphasize the conscious differences in details of practice. It has been powerless to disturb the underlying uniformity.

The separation of adjective and substantive law is by no means complete, and that fact helps maintain uniformity of practice. The substantive law not only began in a rigid application of rules of procedure, but is still in this country constitutionally clamped to them. Due process of law is still required by state and federal constitutions. Besides this somewhat flexible and indefinite requirement, trial by jury in accordance with the rules of the common law, is everywhere guaranteed. Making a jury demandable instead of waivable has largely done away with its use in England, but would certainly have no such effect in this country, until we can induce our courts as tryers of fact to show something of the promptness in decision which comes from the jury. Probably, too, it would be necessary to eliminate some demagoguery from American legal practice and practitioners. However it may be, there is no symptom today in any part of the country, of an effectual supersession of the use of the jury. Is there any state in the union where serious modification of the constitutional guarantee of the right to its use, would have any chance of prevailing? When it really goes, it will be because we have succeeded in devising a better apparatus for determining disputes as to legally operative facts, one which both litigants will prefer to the jury trial. While it remains, the practising lawyer must be instructed in its management, and

must be so at school, if he is attending one. The only available means for such instruction is some form of the practice court.

For myself, I see nothing better than to go forward in the line of the changes that have already been indicated. Keep instructors as *nisi prius* judges. A recent graduate of our own school objected that we had gone one step too far in our imitation of the current practice of our own state courts. He said that we had taken to dealing with the same questions of substantive law which happened at the moment to be engaging the attention of those courts, and in his opinion we should have directed our attention, and his, rather towards matters of procedure. His proposition was, that the work of the practice courts should have been turned towards giving to himself and his classmates, among other things, an adequate knowledge of the practical handling of the provisional remedies. To be sure, immediately upon graduation, he had found himself employed in the office of an old firm of commercial lawyers, doing a large business, and they had thrown a liberal share of the burden upon him. He found it necessary to get immediately a vigorous practical hold of those provisional remedies, and found that his knowledge which stood easily the first test, that of furnishing himself a clear conception, and which had passed the second, that of enabling him to give a clear expression of it in examination papers, was, nevertheless, not quite up to the mark when it met with the third test, and he was called upon to make it work, and produce sound results in actual cases. It seemed necessary to grant the soundness of his criticism, that the law school practice court should look rather to showing the fixed uses of the provisional remedies, than to developing various views as to doubtful applications of substantive law. He felt very much as if he had been offered algebra, when he needed drill in the multiplication table.

Another had criticized the work which had been offered to him in the practice court, that it was altogether too general, that it should have been analyzed, and presented one point at a time, and that point brought forward rapidly, clearly and energetically discussed, and promptly decided. Again it was complained

that we were imitating too slavishly the actual practice of the courts in permitting tedious delays, and spoiling the interest for spectators and on-lookers, by dilatoriness and indecision, as well as by the indefiniteness arising from contesting an entire case, instead of a single point at a single session.

The point of this last man's criticism was certainly well taken. There had not been enough special adjustment of the cases which had been under consideration, with a view to developing special questions. The cases had indeed been permitted to go too much adrift by reason of the instructor's desire to imitate the actual thing as closely as might be. The difficulty had arisen from losing sight of the fact that the actual case in the actual court is heard in order to reach a decision. The practice court case is brought in order to get instruction, especially in matters of procedure. There is a difference between mere experiments in the laboratory for the sake of instruction, and actually testing the viscera of a dead body to ascertain the fact as to the presence of poison.

A third suggestion which my observation of practice court work in our school leads me to regard as a good one, is that an audience should be provided. Every one with any experience knows to what extent the business of real courts is assisted and accelerated by the presence of numerous litigants and witnesses, waiting to have their matters disposed of in their turn. For the sake of thus keying up the whole work, even at the expense of a couple of hours from the other class-work of the third year student, he should be required to attend a moot court session of three hours duration, as often as once in two weeks, for the entire year. Most likely he could profitably be required if he had no hand in the proceedings on the floor himself, to hand in a brief paper of criticisms and suggestions, or else to attend a one-hour symposium for discussion in seminar, of the matters taken up during that three-hour session. This latter should be done in sections, small enough so that each member of the class would be able to take part in it. This last suggestion is now under favorable consideration, and unless something better is suggested, will be put on trial in Nebraska during the coming

year. Provision has been made for securing an additional instructor for that purpose. We do not like to have our students saying that they regard the practice court as the most valuable but the least satisfactory feature in the course.

A suggestion was made by one of the instructors, last year, that the plentiful use of the oath in our proceedings was likely to result in damaging that respect for it which needs to be genuine to enable the lawyer to appeal to it with effect in dealing with jurors and witnesses. A chance attendance at one of the trials in which a waggish student was introducing a male performer in the character of a female witness went so far to confirm the complaint that the form of oath was completely changed. A declaration upon the honor of the student that he would give the evidence, according to the statement of facts which had been furnished to him, to the best of his ability, and a like declaration by the jurors, in their impanelling, as to the trial of issues of fact, was substituted. It did not seem desirable to run any risk of incurring the charge that our practice courts were serving to introduce a contempt for oaths that would later lead in actual trials to subornation of perjury, or at least the knowing employment of false testimony, which is one of the scandals of the profession.

In those cases in which we desire a contest only over a point of law, we give the full statement of facts to both parties. In those where we wish an issue of fact to be raised and determined for the sake of jury practice, separate statements of the facts to be presented by each side, are furnished, not as absolute facts, but as the statements which the witnesses will make. Of course where this is done, there is the greater need that there be no absolute use of the witnesses' oath. The labor of preparing such statements is considerable, but not so great as might be imagined, especially on the part of an instructor who is himself also a practitioner, and fully in touch with what is actually going on in the local courts. The demands upon the time of such instructors during the past year have proved severe enough so that one declined to continue any longer, because of an alleged pressure of outside business, and the other of the two young

practitioners who have had this matter in charge in our institution, declines to assume any greater responsibility for the coming year, or to devote any larger proportion of his time than he has been doing in the past. The result is, that it is at present proposed to continue the last-named gentleman in the practice court work which he has been doing, and to procure a new instructor, as above suggested, whose time shall be mainly devoted to the practice court work, in connection with a few hours a week of lecturing upon practice, past and present.

We hope by such an arrangement, to give a convincing quality to all of the instruction presented in all the class-rooms of our institution, whether that instruction relates to the remotest history of institutions, or the most recent analysis of legal principles. We hope to make the direct practical importance of all the work which we undertake, so convincingly clear that it shall not appear either dry or useless to the dullest pupil, even when coming from the most severely technical teacher.

One item which has been quite insufficiently touched upon is the non-professional law student. He tends to increase in number with us. He also tends to improve in quality, and is becoming a factor of importance in regard to questions of method and instruction generally, as well as in the practice court. Personally, my greatest difficulty with him has been in this connection. When I have found him incorrigible, I have merely reduced his required work to a minimum, and practically gone on without him. In this kind of work with no test of its effect, except such as comes in the doing of it, if it is taken perfunctorily and merely because prescribed, nothing of permanency or value will be obtained. If finally unable to interest him in it, the actual result has been to let him go without it, merely taking measures that he shall not demoralize the others. Such cases, however, have been very rare. In a few cases actual work in courts, necessitated by employment in law offices, has been accepted instead of the practice court work. This too needs careful guarding to prevent demoralization, and is very infrequent, the rule being that the lads employed in law offices are among the most strenuous contestants in the practice court.

A friend who is now a graduate student at an institution where the organization by law clubs is in use, sent me last year a plan for an elaborate organization of such clubs of about thirty members each, in which the required work was to begin in justice of the peace court with the first year students, and go on to general *nisi prius* and appellate work in the second year, allowing one hour credit during the first, and two hours, during the second year, and requiring of the third year students merely attendance at trials and service as judges, and special supervision of a certain portion of the first and second year students, so as to have the latter all distributed under the supervision of some member of the third year class who should be responsible for, and report on them from time to time, to the instructors in charge.

He worked out his scheme in considerable detail, and quite convincingly. The two striking points were the beginning at the starting point of the course with the first year students, and the requiring of the third year men only supervision and reporting. He left an extensive rôle for the instructors. He complained of the present club organization in his school that its dependence upon voluntary and but partially organized work resulted in the avoidance of it altogether by those who needed it most. His main idea, that of making the third year men responsible for the work of the under classes, and giving them authority over it, subject to the action of the instructors, is worth trying in any school having a club system. He proposed to allow credit for one hour a week throughout the first year, and for two hours a week during the second, and for the practice court work, and either one or none at all, during the third year.

In our own institution our reliance upon instructors to act as *nisi prius* judges prevents the full application of the scheme. The putting of the justice of the peace work of the second year men under the supervision of a frequently changed committee of seniors might be tried with us. Seniors have usually made good as justices of the peace.

Only lack of space and time prevented an elaborate apology for the attempt to justify to these assembled teachers of the law

our practice courts, and the devotion to them of the time and effort they take. In preparing the address, the disposition to make such an apology disappeared. Undoubtedly the practice court is to the ordinary student, as one lately told me, the least satisfactory part of his course. This man said it was because he had no examination to meet as to that subject, and he had let it go. His examination will come when he faces the court with his first case, and the law student's ancient foe, "*diffidentia*," assails him. His situation and that of the thousands like him, is more due to lack of real appreciation for, and interest in this branch of his training, on the part of his instructors than of himself. In dwelling upon its vital necessity, I have only been doing here what we find ourselves everywhere as teachers compelled to do, insisting upon those counsels to which everybody assents, and which none of us effectually follow.

PROCEEDINGS
OF THE
TWENTY-SECOND ANNUAL CONFERENCE
OF
Commissioners on Uniform State Laws
HELD AT
MILWAUKEE, WISCONSIN,
August 21, 22, 23, 24 and 26, 1912.

OFFICERS OF THE CONFERENCE
1912-1913.

CHARLES THADDEUS TERRY, *President*,
100 Broadway, New York, New York.

JOHN HINKLEY, *Vice-President*,
215 N. Charles St., Baltimore, Maryland.

TALCOTT H. RUSSELL, *Treasurer*,
42 Church Street, New Haven, Connecticut.

CLARENCE N. WOOLLEY, *Secretary*,
308 Main Street, Pawtucket, Rhode Island.

MEMORANDUM.

The Conference of Commissioners on Uniform State Laws is made up of Commissioners appointed by the Governors of the different states, meeting in conference and organizing themselves into a national body for the better accomplishment of the work for which its members were appointed by the states. The Commissioners, usually three from each state, are appointed under laws of the respective states creating them, usually for five years, with authority to confer with the Commissioners of the other states and recommend forms of bills or measures to bring about uniformity of laws in the execution and proofs of deeds and

wills, in the laws of bills and notes, marriage and divorce and other subjects where such uniformity seems practicable and desirable. The officers of the Conference consist of a President, Vice-President, Secretary and Treasurer, elected annually. Twenty-two Conferences have so far been held; the first at Saratoga for three days, beginning August 24, 1892, and the twenty-second at Milwaukee, Wisconsin, August 21, 22, 23, 24 and 26, 1912.

A complete list of the Commissioners of the several states with standing and special committees will be found in the following pages.

The time of the Twenty-second Conference was largely taken up in the consideration of the proposed amendments to the Negotiable Instruments Law, the draft of an act on the subject of Marriages in Another State or Country in Evasion or Violation of the Laws of the State of Domicile, the third tentative draft of an act to make uniform the Law of the Incorporation of Business Corporations, the draft of a Workmen's Compensation Act, the discussion of the Uniform Partnership Act, the Torrens System of the Registration of Land Titles, and the Report of the Committee on the Situs of Real and Personal Property for Purposes of Taxation.

The proposed amendments to the Negotiable Instruments Law were recommitted to the Committee on Commercial Law for further consideration and report next year.

The draft of an Act Relating to and Declaring Void Marriages in Another State or Country in Evasion or Violation of the Laws of Domicile was finally approved by the Conference.

The third tentative draft of an act to make uniform the Law of the Incorporation of Business Corporations was considered at length and recommitted to the Committee on Uniform Incorporation Law for further consideration.

The draft of a Uniform Partnership Act was recommitted to the Committee on Commercial Law with directions to report at the next meeting of the Conference; and that the committee be further authorized, in its discretion, to prepare and report a Uniform Limited Partnership Act.

The Compulsory Workmen's Compensation Act offered by the Special Committee on Compensation for Industrial Accidents was approved tentatively and the committee continued.

The report of the Committee on the Situs of Real and Personal Property for the Purposes of Taxation was discussed at length, and received, and the committee continued with instructions to give further consideration to the subject, and to report at the next Conference.

SECRETARY'S NOTICE.

In accordance with the Constitution and By-laws adopted by this Conference, the Commissioners will please advise the Secretary of the date of their appointment, specifying the law or authority under which the appointment was made and the duration of their term of office; also of any changes in the personnel of the respective state commissions.

The Conference earnestly urges upon the legislatures of the several states, as well as upon their Commissioners, the importance of introducing at the next sessions of such legislatures, all of the bills recommended by the Conference which have not yet been passed, and the Secretary would ask members to communicate with him whenever such bills are introduced.

In case the list of Commissioners as printed in this report is not correct, or any changes are made subsequently, the Secretary should be notified at once.

Extra copies of this report and such previous reports as are extant may be obtained on application to the President or the Secretary.

LIST OF
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1912.

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- CALIFORNIA.—John F. Davis, 1430 Masonic Ave., San Francisco;
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Erliss P. Arvine, 42 Church Street, New Haven.
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- IDAHO.—James E. Babb, Lewiston National Bank Bldg., Lewiston;
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Wigmore, Northwestern Law School, Chicago; Oliver A. Harker,
University of Illinois, Champaign; Ernst Freund, University of
Chicago, Chicago; Nathan William MacChesney, 30 N. LaSalle
St., Chicago.
- INDIANA.—Andrew A. Adams, Columbia City; E. B. Sellers, Monticello;
S. O. Pickens, Indianapolis; Merrill Moores, Indianapolis;
James W. Noel, Indianapolis.

- IOWA.—Emlin McClain, Supreme Court, Iowa City; Thomas A. Cheshire, Des Moines; J. B. Sullivan, Des Moines; H. O. Weaver, State Savings Bank Bldg., Wapello.
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- MARYLAND.—George Whitelock, 1407 Continental Bldg., Baltimore; Henry Stockbridge, 75 Gunther Bldg., Baltimore; John Hinkley, 215 N. Charles St., Baltimore.
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- NEW JERSEY.—Mark A. Sullivan, Jersey City; John R. Hardin, Prudential Bldg., Newark; Frank Bergen, Elizabeth.
- NEW MEXICO.—James M. Hervey, Roswell; James G. Fitch, Socorro; A. A. Freeman, Carlsbad.
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- NORTH DAKOTA.—H. R. Turner, Rooms 1-6 Edwards Bldg., Fargo; John E. Greene, Suite 1, Schofield Bldg., Minot; Andrew A. Bruce, University North Dakota, Grand Fork.

OHIO.—Seth S. Wheeler, Holland Block, Lima; A. V. Cannon, Cleveland; Benton S. Oppenheimer, Cincinnati.

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OREGON.—H. H. Emmons, 366 Washington St., Portland; W. H. Fowler, Portland; C. J. Schnabel, Portland.

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PHILIPPINE ISLANDS.—E. Finley Johnson, Associate Justice Supreme Court, Manila; Charles S. Lobingier, Judge Court of First Instance, District of Manila, Baguio; W. L. Goldsborough, 47 Colle Aduana, Manila.

PORTO RICO.—Manuel Rodriguez-Serra, San Juan; Emilio del Toro, Associate Justice of the Supreme Court, San Juan.

RHODE ISLAND.—Amasa M. Eaton, 86 Weybosset St., Providence; Thomas A. Jenckes, Providence; Clarence N. Woolley, 308 Main St., Pawtucket.

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VERMONT.—Wallace Batchelder, Bethel; George B. Young, Newport; Marvelle C. Webber, Rutland; Charles D. Watson, St. Albans; John G. Sargent, Ludlow.

VIRGINIA.—Eugene C. Massie, Richmond; James R. Caton, Alexandria.

WASHINGTON.—Charles E. Shepard, 613-14 N. Y. Bldg., Seattle; W. B. Tanner, Olympia; Alfred Battle, 901 Alaska Bldg., Seattle.

WEST VIRGINIA.—Charles W. Dillon, Fayetteville; William W. Brannon, Weston; Edgar B. Stewart, Morgantown.

WISCONSIN.—Edward W. Frost, 1201-6 Wells Bldg., Milwaukee; Dr. Charles McCarthy, Wisconsin State Library, Madison; E. Ray Stevens, Madison.

WYOMING.—Charles N. Potter, Cheyenne; W. E. Mullen, Cheyenne; Edward T. Clark, Cheyenne.

LIST OF
COMMISSIONERS ON UNIFORM STATE LAWS
PRESENT AT THE
TWENTY-SECOND ANNUAL CONFERENCE,
MILWAUKEE, WISCONSIN,
August 21, 22, 23, 24 and 26, 1912.

- ARIZONA.—M. G. Cunniff.
CALIFORNIA.—Lynn Helm, Oscar A. Trippett.
COLORADO.—Henry C. Hall, Harry Eugene Kelly.
CONNECTICUT.—Talcott H. Russell, Erliss P. Arvine.
FLORIDA.—F. M. Simonton, W. A. Blount.
GEORGIA.—Peter W. Meldrim.
ILLINOIS.—John C. Richberg, Oliver A. Harker, Ernst Freund, Nathan William MacChesney.
INDIANA.—Merrill Moores.
KANSAS.—Charles W. Smith.
LOUISIANA.—W. O. Hart.
MARYLAND.—George Whitelock, Henry Stockbridge, John Hinkley.
MASSACHUSETTS.—Hollis R. Bailey, Samuel Williston.
MICHIGAN.—George W. Bates, Cyrenius P. Black, Dan H. Ball.
MINNESOTA.—Rome G. Brown, C. A. Severance, Edward Lees.
MISSISSIPPI.—A. T. Stovall.
MISSOURI.—Seneca N. Taylor.
NEBRASKA.—H. H. Wilson, Ralph W. Breckenridge.
NEW JERSEY.—Mark A. Sullivan.
NEW YORK.—Charles Thaddeus Terry, Francis M. Burdick.
NORTH DAKOTA.—John E. Greene.
OHIO.—A. V. Cannon, Benton S. Oppenheimer.
OKLAHOMA.—D. A. McDougal, Clinton O. Bunn.
PENNSYLVANIA.—William H. Staake, Walter George Smith.
PORTO RICO.—Manuel Rodriguez-Serra, Emilio del Toro.
RHODE ISLAND.—Amasa M. Eaton, Thomas A. Jenekes, Clarence N. Woolley.
SOUTH CAROLINA.—T. Moultrie Mordecai.
SOUTH DAKOTA.—John H. Voorhees, U. S. G. Cherry.
TEXAS.—Hiram Glass.
UTAH.—L. L. Baker.
VERMONT.—Wallace Batchelder, George B. Young, Marvelle C. Webber.

VIRGINIA.—Eugene C. Massie, James R. Caton.

WASHINGTON.—Charles E. Shepard, W. V. Tanner.

WEST VIRGINIA.—Edgar B. Stewart.

WISCONSIN.—Edward W. Frost, Dr. Charles McCarthy, E. Ray Stevens.

Others than Commissioners in Attendance at Conference.

James G. Jenkins, Milwaukee, Wis.

Rollin B. Mallory, Milwaukee, Wis.

W. D. Thomas, Kansas City, Mo.

William Thunder, Tampa, Florida.

Francis B. James, Cincinnati, Ohio, and Washington, D. C.

William U. Hensel, Lancaster, Pa.

Simeon E. Baldwin, New Haven, Connecticut.

L. E. Connolly, Cleveland, Ohio.

William Draper Lewis, Philadelphia, Pa.

Harry Shapiro, Philadelphia, Pa.

Raymond Zillmer, Wisconsin.

Middleton Beaman, New York City.

Charles D. Moulinier, Milwaukee, Wis.

Stephen S. Gregory, Chicago, Ill.

R. O. Baker, —

R. C. Heisler, —

R. E. Rogers, —

LIST OF THE COMMITTEES OF THE CONFERENCE
OF
COMMISSIONERS ON UNIFORM STATE LAWS.
1912-1913.

1. Executive Committee.

Appointed Members.

William H. Staake, Pennsylvania, *Chairman.*
James R. Caton, Virginia.
Nathan William MacChesney, Illinois.
Seneca N. Taylor, Missouri.
C. A. Severance, Minnesota.

Ex-officio.

Charles Thaddeus Terry, New York, *President.*
John Hinkley, Maryland, *Vice-President.*
Talcott H. Russell, Connecticut, *Treasurer.*
Clarence N. Woolley, Rhode Island, *Secretary.*
Walter George Smith, Pennsylvania, *Ex-President.*

2. **Commercial Law.**—Talcott H. Russell, Connecticut, *Chairman*; W. O. Hart, Louisiana; Walter George Smith, Pennsylvania; George Whitelock, Maryland; A. T. Stovall, Mississippi; Samuel Williston, Massachusetts; T. Moultrie Mordecai, South Carolina.
3. **Wills, Descent and Distribution.**—W. O. Hart, Louisiana, *Chairman*; W. A. Blount, Florida; Francis M. Burdick, New York; H. H. Wilson, Nebraska; A. V. Cannon, Ohio; Manuel Rodriguez-Serra, Porto Rico; Marvelle C. Webber, Vermont.
4. **Marriage and Divorce.**—Edward W. Frost, Wisconsin, *Chairman*; Walter George Smith, Pennsylvania; Seneca N. Taylor, Missouri; F. L. Siddons, District of Columbia; Ernst Freund, Illinois; George B. Young, Vermont; W. V. Tanner, Washington.
5. **Conveyances.**—Amasa M. Eaton, Rhode Island, *Chairman*; Wallace Batchelder, Vermont; Edward Lees, Minnesota; Clinton O. Bunn, Oklahoma; Henry C. Hall, Colorado; M. G. Cunniff, Arizona; John Hinkley, Maryland.

6. **Depositions and Proof of Statutes of Other States.**—Frederick G. Bromberg, Alabama, Chairman; John H. Voorhees, South Dakota; F. M. Simonton, Florida; Dan H. Ball, Michigan; Henry Stockbridge, Maryland; Emilio del Toro, Porto Rico; L. L. Baker, Utah.
7. **Insurance.**—Frank Bergen, New Jersey, Chairman; John C. Richberg, Illinois; James R. Caton, Virginia; Ralph W. Breckenridge, Nebraska; Andrew A. Bruce, North Dakota; Cyrenius P. Black, Michigan; Carlos C. Alden, New York.
8. **Congressional Action.**—Aldis B. Browne, District of Columbia, Chairman; E. Ray Stevens, Wisconsin; George W. Bates, Michigan; Oliver A. Harker, Illinois; Merrill Moores, Indiana; Mark A. Sullivan, New Jersey; Benton S. Oppenheimer, Ohio.
9. **Appointment of New Commissioners.**—Seneca N. Taylor, Missouri, Chairman; W. O. Hart, Louisiana; Edgar Scurry, Texas; D. A. McDougal, Oklahoma; Charles D. Watson, Vermont; Royal A. Gunnison, Alaska; Edgar B. Stewart, West Virginia.
10. **Purity of Articles of Commerce.**—Walter E. Coe, Connecticut, Chairman; Walter C. Clephane, District of Columbia; Carlos C. Alden, New York; Harry Eugene Kelly, Colorado; Charles McCarthy, Wisconsin; Cyrenius P. Black, Michigan; J. W. Cutrer, Mississippi.
11. **Uniform Incorporation Law.**—John C. Richberg, Illinois, Chairman; Erliss P. Arvine, Connecticut; Charles E. Shepard, Washington; Seneca N. Taylor, Missouri; Hiram Glass, Texas; Rome G. Brown, Minnesota; Robert Snodgrass, Pennsylvania.
12. **The Torrens System and Registration of Land Titles.**—Eugene C. Massie, Virginia, Chairman; John H. Wigmore, Illinois; Nathan William MacChesney, Illinois; Rome G. Brown, Minnesota; E. Finley Johnson, Philippine Islands; Charles W. Smith, Kansas; A. V. Cannon, Ohio.
13. **Banks and Banking.**—John R. Hardin, New Jersey, Chairman; Thomas A. Jenckes, Rhode Island; Charles S. Lobingier, Philippine Islands; Lynn Helm, California; George W. Bates, Michigan; E. Ray Stevens, Wisconsin; Clarence N. Woolley, Rhode Island.
14. **Publicity.**—W. O. Hart, Louisiana; Amasa M. Eaton, Rhode Island; Eugene C. Massie, Virginia.

Special Committee on Vital and Penal Statistics.—F. L. Siddons, District of Columbia, Chairman; Aldis B. Browne, District of Columbia; Walter C. Clephane, District of Columbia.

Special Committee on Child Labor Legislation.—Hollis R. Bailey, Massachusetts, Chairman; Amasa M. Eaton, Rhode Island; C. A. Severance, Minnesota; F. M. Simonton, Florida; John H. Voorhees, South Dakota.

Special Committee on Compensation for Industrial Accidents.—Hollis R. Bailey, Massachusetts, Chairman; John H. Wigmore, Illinois; Aldis B. Browne, District of Columbia; Hiram Glass, Texas; John R. Hardin, New Jersey; Peter W. Meldrim, Georgia; George Whitelock, Maryland.

Special Committee on the Situs of Real and Personal Property for Purposes of Taxation.—Ernst Freund, Illinois, Chairman; H. H. Ingersoll, Tennessee; John H. Voorhees, South Dakota; J. R. Thornton, Louisiana; Edward Lees, Minnesota.

Special Committee to Cooperate with the American Institute of Criminal Law and Criminology.—John H. Wigmore, Illinois, Chairman; W. A. Blount, Florida; Charles W. Smith, Kansas.

Special Committee on a Uniform Law Relating to Boilers and their Inspection.—C. A. Severance, Minnesota, Chairman; A. V. Cannon, Ohio; Carlos C. Alden, New York; Ernst Freund, Illinois; George B. Young, Vermont.

Special Committee on Expert Testimony in Criminal Proceedings.—Cyrenius P. Black, Michigan, Chairman; Henry H. Ingersoll, Tennessee; Dr. Charles McCarthy, Wisconsin.

Special Committee on Legislation Relating to the Use of the Flag.—George W. Bates, Michigan, Chairman; Nathan William MacChesney, Illinois; Henry C. Hall, Colorado; Henry Stockbridge, Maryland; W. O. Hart, Louisiana.

Special Committee on Computation of Time.—Francis M. Burdick, New York, Chairman; Mark A. Sullivan, New Jersey; Benton S. Oppenheimer, Ohio.

PROCEEDINGS

Milwaukee, Wisconsin,

Wednesday, August 21, 1912, 10 A. M.

The Twenty-second Annual Conference of the Commissioners on Uniform State Laws convened in the United States Circuit Court Room, Federal Building, Milwaukee, Wisconsin, on Wednesday, August 21, 1912, the President, Walter George Smith, of Pennsylvania, in the Chair.

(The President's address follows these minutes, page 1094.)

W. O. Hart, of Louisiana:

I move that the President's address be referred to the Executive Committee, with power to report at any time and with the power also to refer any part of the address to other committees, and that so far as the address refers to the work of other committees that those parts be referred to such committees.

The motion was carried.

The report of the Executive Committee was read by the Chairman of the committee, William H. Staake, of Pennsylvania, and on motion was received and approved.

(The report of the Executive Committee follows these minutes, page 1127.)

On motion, the sessions of the Conference were fixed for the first day as follows: 10 to 12.30 morning session, and 2.30 to 5 o'clock, afternoon session, and for the remainder of the Conference from 9 to 12.30, morning session, and from 2.30 to 5 o'clock, afternoon session.

The annual report of the Treasurer was read by Talcott H. Russell, of Connecticut, and referred under the rule to an Auditing Committee.

(The report of the Treasurer follows these minutes, page 1114.)

The President appointed as such Auditing Committee Commissioners Blount, Cunniff, and Kelly.

The annual report of the Secretary was read by Charles Thaddeus Terry, of New York, and on motion was received and approved.

(The report of the Secretary follows these minutes, page 1118.)

President Smith:

Reports of standing committees are now in order, and these may be formally presented at this time.

The report of the Committee on Commercial Law was then read by Talcott H. Russell, of Connecticut, Chairman.

(The report of the committee follows these minutes, page 1141.)

Talcott H. Russell of Connecticut:

One member of the committee dissents from one of the recommendations contained in this report; otherwise it is a unanimous report.

President Smith:

The report will lie on the table until it is taken up in accordance with the recommendation of the Executive Committee.

Next in order is the report of the Committee on Wills and Distribution.

W. A. Blount of Florida.

I understand that this committee has no report at this time, but probably will have a report to present later.

President Smith:

The Committee on Marriage and Divorce.

Seneca N. Taylor of Missouri:

Mr. Frost, our Chairman, is not here, but as a member of the committee I present the report which is in print.

(The report of the committee follows these minutes, page 1143.)

President Smith:

That will lie on the table until the proper time to consider it.
Report of the Committee on Conveyances.

Thomas A. Jenckes of Rhode Island:

Will the Chair pass that for the present?

President Smith:

Report of the Committee on Depositions and Proof of Statutes of Other States. I understand this committee also desires to have the presentation of its report passed for the present.

The Committee on Insurance.

John C. Richberg of Illinois:

There is no report as there has not been any meeting of the committee.

President Smith:

The Committee on Congressional Action. I do not observe any member of the committee present, so that will be passed.

The Committee on the Appointment of New Commissioners.

Seneca N. Taylor of Missouri:

I am advised that every state and territory and the possessions of the United States have appointed Commissioners.

President Smith:

The Committee on Purity of Articles of Commerce. No member of the committee being present, that will be passed.

The Committee on Uniform Incorporation Law.

John C. Richberg of Illinois:

That committee met in New York in December, only one member being absent, and we spent three days in preparing the third tentative draft. That draft was finally adopted unanimously, and it has been printed and distributed and will be taken up for discussion on Friday.

(The report of the committee follows these minutes, page 1144.)

President Smith:

The report will be received. The Committee on the Torrens System of Registration of Titles.

Francis M. Burdick of New York:

That report has been printed and will be distributed before Thursday night when it will be discussed.

(The report of the committee follows these minutes, page 1147.)

President Smith:

The report will be received. The Committee on Banks and Banking. I am informed that there is no report.

The Committee on Publicity.

W. O. Hart of Louisiana:

I beg to state as Chairman of the committee that during the year I have kept the work of this Conference before the public in every way possible through articles and notices in the newspapers and magazines. I appeared before the National Association of Boilermakers, at their convention in New Orleans, as they are working to establish a uniform law governing the inspection of boilers, and brought to their attention the work of this Conference. I also sent to the representative of the Associated Press in Milwaukee a summary of our work.

President Smith:

The report will be received. The next committee is the Committee on Child Labor.

Hollis R. Bailey of Massachusetts:

We made our final report last year, Mr. President, and I think the committee is no longer in office.

President Smith:

Then that will be passed, although, Mr. Bailey, I wish you would ascertain if that is the fact, that the committee is no longer in office.

Is there any report from the Special Committee on Compensation for Industrial Accidents? Mr. Bailey is also Chairman of that committee.

Hollis R. Bailey of Massachusetts:

We have prepared two drafts, as directed by the Conference, one on the elective theory and the other on the compulsory theory, and they are here in print.

(The report of the committee follows these minutes, page 1155.)

President Smith:

They will be taken up in their regular order later. I see Mr. Eaton here and would ask if he has any report from the Committee on Conveyances.

Amasa M. Eaton of Rhode Island:

A very modest report was made last year on that subject and no action was taken upon it. The committee was continued and it is hoped that the matter will be taken up this year and action had.

President Smith:

We will consider it as now presented, and at the proper time, Mr. Eaton, you may call it up.

The Special Committee on the Situs of Real and Personal Property.

Ernst Freund of Illinois:

I present the report.

(The report of the committee follows these minutes, page 1177.)

President Smith:

The report will be received.

The Special Committee to Report on the Subject of Cooperation with the Institute of Criminology. I understand that there is no report.

President Smith:

Is the Nominating Committee ready to report?

W. O. Hart of Louisiana:

Yes sir; and our report is as follows:

REPORT OF NOMINATING COMMITTEE.

President: Charles Thaddeus Terry, of New York, N. Y.

Vice-President: John Hinkley, of Baltimore, Maryland.

Secretary: Clarence N. Woolley, of Pawtucket, R. I.

Treasurer: Talcott H. Russell, of New Haven, Conn.

On motion the report was received and the Chairman of the Executive Committee was directed to cast one ballot for the election of the officers named, which was done; whereupon the Chair declared them unanimously elected.

Commissioners Hart and Staake were appointed a committee to escort the newly elected President to the platform.

The President-elect was conducted to the platform where he was greeted and handed the gavel by the retiring President who said:

I have the honor, sir, to present you with this emblem of office and I wish you a most prosperous administration.

President Terry:

Acknowledging the kind words of the retiring President it would be affectation in me, gentlemen, not to acknowledge at the same time my deep appreciation of this honor which you have shown me. But deep as my appreciation is of the honor, my appreciation of the responsibility of the office is still greater. You will understand, I know, what I mean when I say without flattery, and at the same time without qualification, that it will be no small task to carry forward the mantle which has been passed on from Amasa M. Eaton to Walter George Smith and now falls to my shoulders. In a moment I am going to ask your consideration of a resolution respecting my predecessor, but for this moment I wish earnestly to have you understand that the dignity of this office, the importance of its function, the seriousness of its duties, are given due weight by me. And in that connection I wish to bespeak from you the same courtesy and patience and cooperation which you have heretofore extended not only to your former presiding officers, but to me, for some years your Secretary. If I may be sure of that I shall go forward with courage, feeling that I should give up the task immediately

without it. In presiding here and in performing the other duties connected with this office I shall do so (and I thereto pledge myself) without fear, favor or hope of reward. I ask Judge Staake to take the Chair.

President Terry:

I now beg leave to offer the following preamble and resolution:

"WHEREAS, Walter George Smith has served the Conference for three years as its President, with untiring devotion to the duties of the office, with extraordinary ability and a fine appreciation of the highly important work entrusted to the Commissioners composing this body; and

"WHEREAS, There is rarely found in public service men who will contribute of their talents, time and valuable experience, for the promotion of the good of the people at large, without emolument; and

"WHEREAS, Our retiring President has rendered services to the Conference and the public which are beyond price, and which could not have been bought or paid for,

"Now, Therefore, *Be It Resolved*, That the Commissioners on Uniform State Law, in Conference assembled, do hereby express their profound recognition of the unselfish devotion which has characterized his term of office, and convey to him the thanks of the respective states, which they represent, and of the Commissioners as a public body, for the high public service which he has rendered, and their appreciation for his personal courtesies, patience, high abilities, and successful work in the cause which such Commissioners are here to serve."

I move you, sir, the adoption of this resolution.

The Chairman:

I am constrained to call attention to the fact that under our By-laws resolutions of thanks to our own members cannot be adopted and I so rule. I think possibly the resolution might be filed.

Walter George Smith of Pennsylvania.

I rise to a question of high privilege. I feel sure, gentlemen of the Conference, that any kind expression formulated by any one of you would be accepted and ratified by every one of you. I feel just as much complimented, and just as grateful as if this resolution—too gracious, too kind—from our friend, the retiring

Secretary, and now my successor as President, were adopted and written in letters of gold and presented to me to be kept. The By-law does inhibit it and my friend's kindness of heart, and sweetness of disposition overcame his more usual intellectual perspicacity when he introduced it; and I think the Chairman should cut off all debate, which is entirely out of order, and I make that point of order.

Seneca N. Taylor of Missouri:

While the By-laws preclude the consideration of any such resolution, I do not see that it prohibits the entering at large on our records the resolution.

The Chairman:

That is what I had in mind at the time I suggested that the resolution might be filed.

President Terry:

I will accept that form of action in place of my motion.

President Terry:

With the permission of the Conference the resolution is withdrawn, without any pledge on my part, however, that no other action shall be taken with reference to it. Technically, however, I withdraw the resolution.

(The President then resumed the Chair.)

President Terry:

I suppose it would ill become me at this time to countenance violation of even the most technical of the provisions of the By-laws. I find myself, however, in possession, as your presiding officer, of a set of remarks with regard to our retiring President, and I shall and do hereby order them spread on our record and printed in the minutes.

The hour fixed for recess having arrived, I declare an intermission until halfpast two o'clock.

Recess was taken until 2.30 P. M.

AFTERNOON SESSION.

President Terry:

The Conference will be in order.

W. O. Hart of Louisiana:

When the National Boiler Makers assembled in New Orleans last winter I was privileged to address the Association, and inasmuch as they were engaged in an effort to procure the passage of a uniform boiler inspection act, I called their attention to the work carried on by the Conference. They were very much interested at once and said they would be very glad of the opportunity to send a delegate here to invite our aid. I communicated with our President and Mr. Smith said he thought the Conference would afford such delegate an opportunity to speak. Now that Association has sent here a representative, Mr. Connolly, of Cleveland, and I suggest that at some convenient time he be heard.

President Terry:

We will give the gentleman a hearing presently.

W. O. Hart of Louisiana:

Before proceeding to the regular order, Mr. President, I desire to present a tribute to the memory of a valued member of this body, Mr. John Fletcher, who died on the 18th of September, of last year. I present the memorial because I do not know that any gentleman from his state—Arkansas—is present.

President Terry:

The memorial may be presented.

(The memorial to Mr. John Fletcher, of Little Rock, Arkansas, was then read by Commissioner Hart.)

President Terry:

The President of the Milwaukee Bar Association desires to extend to the members of the Conference a welcome on behalf of his organization.

Mr. R. B. Mallory:

Mr. President and Commissioners: This welcome may seem

somewhat delayed, but I wish to assure you that we appreciate highly the honor of having so distinguished a body of men to meet in our city. I have just returned from my vacation in the wilderness of the northern part of the state, but from now on I propose to devote myself to your entertainment, and I trust you will forgive what may seem to be a lack of the ordinary courtesies, due to inadvertance. I hope you will all make yourselves at home. We have an open hearted city and we want you to enjoy your stay here and I assure you that we will do everything we can to bring that about.

President Terry:

May I, on behalf of the Conference, express what I know to be our unanimous feeling of appreciation for the cordial welcome which has been extended to us on behalf of the Milwaukee Bar Association.

A member of the Bench and Bar of Wisconsin, Judge Nash, is here and I shall call upon him to state briefly a matter that he has in mind looking towards uniformity on a subject which has not yet been considered by the Conference and with reference to which the Conference may desire to take action.

Judge Nash of Wisconsin:

What I desire to say may hardly be worthy the attention of this body. In some work that I have been doing upon the Wisconsin statutes I was led to an appreciation of the fact that very soon I will be compelled to begin the work of reclassification of the Wisconsin statutes, and I naturally felt that if there were a better method of classification or arrangement, that it would be worth while to know such better arrangement before deciding definitely upon the plan for our state. Accordingly, as I was passing through Milwaukee, I called upon Mr. Frost who is a member of your body and laid the matter before him and he advised me to write to your President, Mr. Smith. I did so and Mr. Smith wrote back that if I could study up the subject to some conclusion satisfactory to myself he thought that it would be worth while for me to appear here and present it.

Now, as a matter of fact, I have not given the matter any study. It is only an incidental turning of my mind to this subject as I have been doing this other work; but as my thoughts have come back to it from time to time the work of making all the statutes of the different states identical in arrangement is so sure to encounter such obstacles that it seems to me hardly worth attempting, for the present at least. At the same time there has been, as part of my work, the preparation of an index, and it has seemed to me that it would be feasible so to arrange the subject of indexing that there might be a uniform plan adopted so that it would be easy for any one searching the law in some neighboring state to find what he is after by knowing just what the terminology used in the index is.

The only suggestion that I have in mind so far is, to follow what we have done at Madison. We have taken every body of statutes in the United States and we have gathered under every generic subject as many of the topics as we could, to which any reference could be made, as indicating the matter in this or that searching. If some such system could be put in force throughout all the states it would be valuable.

Talcott H. Russell of Connecticut:

I am sure we have all listened with interest to what Judge Nash has said. Our By-laws provide that all propositions for new business shall go to the Executive Committee. I, therefore, move that this subject be so referred.

The motion was seconded and carried.

President Terry:

Now, in line with the suggestion made by Mr. Hart, I take pleasure in calling upon Mr. Connolly, representing the Boiler Manufacturers' Association.

Mr. L. E. Connolly of Cleveland, O.:

Mr. President and gentlemen: I come here as the representative of the American Boiler Manufacturers of the United States and Canada; I come here in the interest of the boiler users and in the welfare of the general public; I come to solicit your assist-

ance in obtaining the passage of a uniform boiler law in the various states.

Is there anything more dangerous or unsafe than a bad boiler or a good boiler under the handling of an incompetent person? I don't believe there is anything, unless it be nitroglycerine or gun powder.

The American Boiler Manufacturers' Association met in New Orleans last March for the purpose of devising ways and means to get some legislation upon this subject of uniform boiler laws. The press of that city gave a great deal of publicity to the efforts of the Association and it was through the columns of the newspapers that Mr. Hart of that city, also a member of this Conference, learned of our efforts. He came before our Convention, addressed us upon this subject of uniform laws, told us of the existence of this body, what you had already accomplished and what you were doing to secure uniform laws. He very kindly invited our members to send a representative to your meeting and the Association was indeed very much pleased to know, that a body such as this, was in existence and I am here as I say to solicit your aid in securing Uniform Boiler Laws in the various states.

At the present time we have a National Uniform Law pertaining to marine boilers, their construction, inspection, etc. All boilers used in navigation upon the navigable waters of the United States come under the steamboat inspection service of the United States Government. A marine boiler built in Duluth is subject to the same requirements and inspection as one built in Buffalo and vice versa. Time, as well as the facts, have demonstrated that this law is good. We have had very few accidents of serious nature due to boiler failures in the marine service.

Take the locomotive boiler. This boiler now comes under the jurisdiction of the United States Government through the interstate commerce commission. This commission is divided into districts and the railroads are subject to the branch of the commission in some one of these districts and I understand the requirements and boiler inspections are severe and rigid.

Now a very small proportion of the boiler manufacturers, the boiler users or the general public are interested in marine and locomotive boilers. They are interested in the land and stationary boilers, the boilers in your large power plants, your large office buildings, your school houses, your public buildings, hotels and churches, and the various states have a variety of laws pertaining to these boilers. The State of Massachusetts has a very good boiler law, the State of Ohio has just adopted a law copied after the law of Massachusetts. The cities of Chicago, Philadelphia and Detroit have laws. Some boilers built in Chicago in accordance with the requirements of that city will not pass inspection in Ohio or Massachusetts and vice versa. I am going to call your attention to two incidents that occurred some time ago, and which I related before the convention at New Orleans, in order to show you the necessity of a uniform law applicable to the boiler manufacturers and to the users. Some time ago, before this new Ohio law was adopted, the D. Connolly Boiler Company of Cleveland built for the Great Lakes Dredge and Dock Company a large 12 foot diameter Scotch boiler, to be used for running drills aboard a drill boat. The boiler was not used in propelling the boat and did not come under the Marine Law. However, the boiler was built of the very best materials, they were all tested at the steel mills and the boiler was constructed the same as it would have been if it were going into the marine service. It was put into use on this drill boat at Cleveland for about six months and gave the best of service. In the meantime this firm received a contract at Boston Harbor for some work requiring the use of this drill boat. They went to the expense of towing this boat from Cleveland to Boston and when they got it there, they were, as first, not permitted to use it because it was not made to the Massachusetts standard. However, by some correspondence, in which we were able to produce the test sheets and some affidavits, our customers were finally allowed to use the boiler, but considerable time elapsed between the time the boiler was condemned and again passed, and during this time our clients maintained a crew aboard this boat, and they had to pay and feed such crew, and it was a cause for a great deal of

annoyance and considerable expense. Another case: We recently made a boiler for a customer to pass the requirements of the State of Massachusetts. The boiler was inspected by a licensed Massachusetts inspector who was in our works during the course of construction. He issued a Massachusetts State certificate and we shipped the boiler to our customer supposing it was going to Massachusetts. The boiler did not go to Massachusetts, but was shipped to Detroit, where they say they will accept Massachusetts standard boilers. But it so happened that the Massachusetts inspector who inspected this boiler did not hold a license from the city of Detroit. Finally after considerable correspondence our customer was able to convince the Detroit authorities that the boiler was all right.

I am not criticising the laws of Massachusetts or the ordinances of Detroit, nor finding fault with any officers of these places for enforcing their laws. I recite these incidents merely to show the necessity for a uniform law. If each of the states or cities is going to adopt a law of its own, it is going to be necessary for the boiler manufacturer to study law. He will have to have a law library in connection with his office. That is what we are trying to avoid. We want your assistance to obtain a uniform law and uniform inspection in the different states—something which will work similarly to the Marine Law. The American Boiler Manufacturers have adopted the Massachusetts and Ohio Laws as being the best, though at the present time a committee of the Association is at work upon some amendments to be proposed to the legislative departments of these two states. I will leave a few copies of the Ohio law with your secretary, and I trust your body will give us the assistance we ask for.

I trust we will be able to secure a law to benefit the honest manufacturer, protect the boiler user and safeguard the general public. I thank you for your kind attention and for the time you have given me.

On motion of Mr. Richberg the subject matter discussed by Mr. Connolly, together with a copy of the proposed law that he spoke of, were referred to the Executive Committee.

President Terry :

In accordance with the program laid out by the Executive Committee, the session of this afternoon is to be devoted to the work of the Committee on Commercial Law ; and the Chair will recognize Mr. Russell, of Connecticut, Chairman of the Committee.

Talcott H. Russell of Connecticut.

I move that the Conference go into Committee of the Whole on the proposed amendments to the Negotiable Instruments Act.

The motion was seconded and carried, and the Conference resolved itself into Committee of the Whole for the purpose of considering amendments proposed by the Committee on Commercial Law to the Negotiable Instruments Act, with Mr. Caton, of Virginia, in the Chair.

(Discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose and the President resumed the Chair.

James R. Caton of Virginia :

Mr. President, the Committee of the Whole, having been in session considering the proposed amendments to the Negotiable Instruments Act, reports progress and asks leave to sit again tomorrow morning.

President Terry :

The report of the Committee of the Whole is received, and the leave requested will be granted.

Subject to the wish of the Conference I shall pursue the course of stopping the regular order of business perhaps ten minutes before the time heretofore fixed for the close of each session, so that we may dispose of any current matters pressing for disposition.

If any member of the Conference has any such matter which he wishes to present it may be received at this time. Let me say to the members of the Conference that it will greatly facilitate the work of the Conference if all Commissioners will sign the register so far as they have not already done so. This suggestion includes those who are not members of the Conference and who are here as visitors.

I will say to the members of the Conference that there is in course of preparation a program in printed form which it is hoped will be in the hands of the members tomorrow morning indicating the particular subjects which will be under consideration at the various sessions of the Conference.

Let me suggest again, that, when Commissioners rise to speak they give their names so that we may have the report of our proceedings correct.

The Conference then adjourned to Thursday, August 22, at 9 A. M.

SECOND DAY.

Thursday, August 22, 1912, 9 A. M.

President Terry:

The Conference will be in order.

The Chair now announces the membership of the new Executive Committee, as follows:

William H. Staake, Chairman; James R. Caton, Virginia; Nathan William MacChesney, Illinois; Seneca N. Taylor, Missouri; Charles A. Severance, Minnesota.

Ex-officio: Charles Thaddeus Terry, President; John Hinkley, Vice-President; Talcott H. Russell, Treasurer; Clarence N. Woolley, Secretary; Walter George Smith, ex-President.

Ernst Freund of Illinois:

On behalf of the Special Committee on the Situs of Property for the Purposes of Taxation, I move that leave be given to the committee to print its report in order that it may be in the hands of members on Saturday afternoon when the matter will come up for consideration.

The motion was seconded and carried.

On motion, the Conference resolved itself into Committee of the Whole for further consideration of the proposed amendments to the Negotiable Instruments Act, with Mr. Stovall, of Mississippi, in the Chair.

(Discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose and the President then resumed the Chair.

The Chairman of the Committee of the Whole reported that the committee had had under consideration the Negotiable Instruments Act, and asked leave to sit again. The report was received and the President stated that the request would be granted if time permitted.

Talcott H. Russell of Connecticut:

I move that the Conference now go into Committee of the Whole for the purpose of considering the proposed Partnership Act.

The motion was seconded and carried and the Conference resolved itself into Committee of the Whole for the purpose of considering the proposed Uniform Partnership Act, with Mr. Bailey, of Massachusetts, in the Chair.

(Discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose, and the President resumed the Chair.

Chairman Bailey made report that the Committee of the Whole which had been in session considering the tentative draft of the Law of Partnership, reported progress and asked leave to sit again; which request was granted.

President Terry:

The Conference will now take a recess until half past two o'clock.

AFTERNOON SESSION.

President Terry:

The Conference will be in order. I will call upon the Auditing Committee for its report.

The report of the committee was presented by W. A. Blount, of Florida.

(The report of the committee follows these minutes, page 1116.)

On motion, the report was accepted and placed on file.

President Terry:

The acceptance of this report carries with it the approval of the report of the Treasurer.

The business of the session particularly assigned by the Executive Committee for this afternoon is the report of the Committee on Marriage and Divorce.

Edward W. Frost of Wisconsin:

Mr. President and gentlemen: The committee is particularly pleased to be able to report only about ten lines for your consideration. The committee has had a great deal to say in these Conferences for several years on the subject of Marriage and Desertion, and that sort of thing, but this time the committee has only a short bill to propose. And I will say that of the six members of the committee, as it is at present constituted, the resignation of Vice-Chancellor Emery, of New Jersey, having cut it down to six members, five are in favor of the bill as drawn, although differing on the words in parenthesis "and shall return and reside here." I fear it would be a presumption that only a judge could make that you are all familiar with what I am talking about. I trust you have all read everything that is to come before you and have considered the footnote with care.

I would say that the bill relates to marriage in evasion of the law of the state by residents of that state who go into other states for the purpose. I had expected that Mr. Siddons, of the committee, who has been most zealous in the examination of this subject, would be present to make his argument in favor of the law as it is printed without the words "and shall return and reside here." On the other hand, Professor Freund, of Chicago, who has some doubt and is an honored member of the committee, is here, and I will ask that he express his doubt now.

Ernst Freund of Illinois:

My name is signed to this report, but in my letter to the Chairman of the committee—I was not able to attend the meetings of the committee and I had to communicate with the other members of the committee through correspondence—I merely approved of one of the three forms submitted to me.

This bill is aimed chiefly at certain provisions in the divorce statute which forbids the guilty party to remarry either within a certain time, one year, or, in New York, in the life time of the other party. As to the wisdom of such a prohibition people may be of different opinions. If New York thinks fit to put that prohibition into the statute and then to allow people to go into New Jersey or other states and be married, and then permit them to return and live in New York as married people it is not in the province of any other state to interfere.

Now, these provisions in the act are of a penal character. They are intended to punish the guilty party, and I think for this Conference to undertake, simply because it approves of a policy of this kind, to go to all the legislatures and say, "Enact this law," is a new step. Up to this time we have confined ourselves to the work of uniformity, and this law would not tend to produce uniformity, but would produce diversity. As the law stands at present, if people go outside of the state and are married, they are married anywhere in the land. If you adopt this law, the consequence would be to force upon the country a diversified law, because these people will be married in any state where they are, and they would not be married in any other state. In other words, the very purpose of the Conference to produce uniformity would not be effected, but the contrary result would obtain. I think it would be a very unfortunate step if we should present an act for adoption by the legislatures of the various states which is not only calculated to make marriages valid or invalid all over the country, but which would lead to a whole lot of evil, if it is an evil, namely, to accept the principle that the capacity of people to marry is judged by the law of the place where they are to be married.

Now, to one point of detail. This act differs from all other acts of this character by stating that "if any person or persons being residents of this state shall go into another state with intent to evade or violate the law," etc. Now Massachusetts has a law of that kind and provides that if two parties leave the state and marry for the purpose of evading the laws of Massachusetts it shall be unlawful. That, of course, cannot be carried out. If

a person residing in New York desires to marry a woman in New Jersey, a resident of New Jersey, it would be impossible to prove that he went into New Jersey with the intent of evading the laws of New York. In other words, to this extent this act is perfectly futile in so far as it changes the approved form of this legislation.

Edward W. Frost of Wisconsin:

I should like now to read a letter that I have received from Mr. Siddons on this subject.

President Terry:

I think it would be well first to have a motion made for the adoption of the amendment proposed by the committee, and then discussion upon the amendment will be in order.

Edward W. Frost of Wisconsin:

I move the adoption of the bill as presented with the exception of the words in brackets "and shall return and reside here."

The motion was seconded.

President Terry:

Is it desirable to go into Committee of the Whole?

Walter George Smith of Pennsylvania:

I hardly think it is necessary, Mr. President.

(The debate upon the amendment is omitted.)

Mr. Bailey, of Massachusetts offered a suggestion to the committee for the improvement of the provision as proposed.

President Terry:

The gentleman from Massachusetts will please submit his suggestions to the committee in writing.

Ernst Freund of Illinois:

I move that this proposed act be recommitted to the committee.

The motion was seconded.

W. O. Hart of Louisiana:

I ask that the roll of states be called on the motion to recommit.

President Terry :

The Secretary will call the roll.

A vote by states was had and the motion to recommit was lost.

Edward W. Frost of Wisconsin :

In spite of this vote, which is very gratifying to those of us who have been supporting that side of the debate, the minority is so respectable and so convinced of its position that the committee is willing now to have the measure recommitted.

President Terry :

That may be done by unanimous consent. Is there any objection? The Chair hearing none, the bill is recommitted to the committee.

Edward W. Frost of Wisconsin :

The committee will endeavor to report back at the opening of the session on Monday afternoon.

Talcott H. Russell of Connecticut :

I now move that we go into Committee of the Whole for further consideration of the proposed Partnership Act.

The motion was seconded and carried and the Conference resolved itself into Committee of the Whole for the purpose of further considering the proposed Partnership Act with Mr. Bailey in the Chair.

(The discussion in Committee of the Whole is omitted.)

On motion the Committee of the Whole then arose, and the President resumed the Chair.

The Chairman of the Committee of the Whole which had been considering the proposed draft of an act to make uniform the law of partnership, reported progress and asked leave to sit again before the final adjournment of the Conference, which leave was granted.

President Terry :

The Conference will now stand adjourned until eight o'clock this evening.

EVENING SESSION.

President Terry :

The special order for this evening is the consideration of the report of the Committee on the Torrens System of Registration of Land Titles.

Francis M. Burdick of New York (Chairman of the committee) :

It may be well for me to run over briefly the history of this committee and the action of this body heretofore.

The first committee appointed on this subject was in 1905. The committee examined the subject during the year, and made a report dealing with the general features of the system, treated of the success which had attended the adoption of the system in some of the English possessions, referred also to the system which prevailed in Germany, and closed with the opinion that it was not deemed advisable to recommend the adoption of a uniform law on the subject.

The committee was continued, and the following year, the year 1907, the subject was advocated both in New York and in Louisiana. Commissioner Thornton, of the latter state, drafted a law for Louisiana. In New York, Governor Hughes appointed a commission to investigate the subject. That commission reported a statute. The law failed of adoption in Louisiana.

The following year the committee referred to the New York Act in very hopeful terms, and one of the members of the committee, the gentleman who is now our President, referred to the New York Act as the one which would be accepted by lawyers as a real boon. I think that was the feeling generally among the members of the Bar in New York. It was believed that it would put the title to lands very much upon the basis of the title to personalty and make transfers of real estate almost as easy as those of interests in personal property.

The next year the committee was somewhat differently composed, and, in making the report, I, as Chairman of the committee, made no special recommendation on the subject. I think the member from Rhode Island, Mr. Eaton, requested the com-

mittee to send to the commissioners of the different states copies of the New York statute and of the Massachusetts statute and ask their consideration of them. The New York Act had proven satisfactory both to its friends and to its opponents. The friends of the act had proposed a number of amendments, but unfortunately they were not adopted. A committee was appointed in the New York State Bar Association on motion of Mr. Hawes. Mr. Hawes is the gentleman who appeared before the Conference last year in Boston, and he is very much interested in the subject. He was not made the Chairman of the committee, but Mr. Charles A. Boston—the other New York lawyer who appeared before us last year—was made Chairman. Then these amendments were enacted, but it was found that there were mistakes made, and then the New York State Bar Association undertook to correct them, and so the controversy raged.

Last year the Conference passed a resolution to the effect that the Commissioners from each state inform the Chairman of the committee whether the system had worked satisfactorily in such states as it had been adopted in. As none of the Commissioners volunteered the information the Chairman of the committee wrote to each of them and has received replies from several, some commending it and others calling attention to defects in the system.

I attempted to get opinions from New York experts on the subject. I wrote to Mr. Hawes, and he replied that he had a case pending before the Appellate Division in New York involving the constitutionality of the law, but that he expected a decision would be handed down early in July, and then he would communicate with me. I did not hear from him, and I wrote him again about ten days ago, and still I have had no further communication from him.

The committee of the New York State Bar Association last January made a report on the number of applications and registrations under the law from 1908 to 1912, and found that there had been only 43 applications, which resulted in 28 registrations.

The effectiveness of the statute seems to be under consideration on the question of its constitutionality. If it is declared uncon-

stitutional then I suppose we shall do nothing further with the system in New York state.

In this state of affairs the Chairman of the committee drafted a report and sent it to each member of the committee, and he has received authority from Mr. Brown, Mr. Kent and Mr. Lawson to append their names to the report. One member of the committee did not reply. I do not know whether my communication reached him or not, as I understand now that he was away on vacation. Another member of the committee is in the Philippines, and no reply was received from him. The remaining member of the committee, Mr. Wigmore, sent a dissenting report, which is also printed, following the report of the majority of the committee.

The majority of the committee are of the opinion that if the system in the various states had been the same as that in Massachusetts we should have recommended to the commissioners that they advise the various state legislators to adopt it; but in view of the varying experiences in the different states, in view of the varying types of statutes in the different states, in view especially of the situation which exists in New York, we believe that it is not a proper time at present to recommend that the Commission draft a uniform law upon the subject, but that it would be better to wait a few years and watch the further experimenting in the states where the statute has been enacted.

President Terry:

Gentlemen, you have heard the report made by Mr. Burdick. What is the pleasure of the Conference?

Seneca N. Taylor of Missouri:

I move that the report be accepted and filed and the committee continued.

Amasa M. Eaton of Rhode Island:

I second the motion.

Eugene C. Massie of Virginia:

If this motion means that nothing more is to be done for some years with reference to the Torrens System of Registration it

seems to me that we ought to discuss it for a few moments. I know that some states are now agitating this subject and that a determined effort is going to be made to pass some sort of a Torrens legislation law in North Carolina and in South Carolina at the next sessions of their respective legislatures.

I hope that this subject will not be laid aside finally by the Conference.

Nathan William MacChesney of Illinois:

If by the drafting of a uniform law the committee were necessarily committed to an active propaganda in favor of the passage of the law in each state I should agree with the committee in their report, but the time has not yet arrived for action by this Conference because there are many questions yet to be settled in connection with the subject.

I believe that the Torrens Registration System is one of increasing importance in this country, and it is gaining in favor very much. I happen to have been the counsel for the Chicago Real Estate Board and also for the National Organization of Real Estate Men and I am a director in the Title Trust Company, of Chicago, and I have discussed the subject. I do not believe the trust companies are going to be effected by the growth of the Torrens Registration System. There is no question that the people of our state are in favor of it. We now have in Cook County the compulsory system attached to the Torrens law. Its adoption is optional by the various counties of the state.

Francis M. Burdick of New York:

I would like to ask just what the compulsory feature of that law is?

Nathan William MacChesney of Illinois:

I cannot give you the exact provisions of it. The law was passed by our legislature subject to a referendum by the people, and it was voted upon and carried overwhelmingly. The act provides, in substance, that when an estate gets into the Probate Court the executor shall apply for the registration of the titles to the land standing in the name of the decedent at the time of his death. That is the essential feature of it.

The first time that law was introduced in the legislature the Title and Trust Company fought it, but finally came to the conclusion that it was bad policy to oppose something that the people wanted. Besides, they came to the conclusion in view of the development of the business that the Torrens System did not offer any such competition as they had at first supposed it would. I must say that the system has been splendidly administered in Chicago.

William H. Staake of Pennsylvania :

It might be interesting to know how much consideration this act has received in this body. In 1903 a resolution was passed that the President of the Conference appoint a committee to report upon the feasibility of drafting a uniform act on the subject, and from that time on we have had a committee on the Torrens System for the Registration of Titles. At that time we had 21 Commissioners present, representing 15 states. It is interesting to compare conditions then with conditions today as evidencing at least a considerable growth of interest in the work of this Commission, when we have 34 or 35 states represented and devote four days and a half to our deliberations as against two days at that period.

W. O. Hart of Louisiana :

We began the study of this system in our state in 1904. The legislature authorized the appointment of a Commission, and the Governor appointed one. Senator Thornton was not a member of that Commission. Mr. Kernan was a member of it, and I was a member of it. We prepared a report and a bill, which was submitted to our legislature in 1906; but the time was not ripe and the bill was not passed.

It may be that in certain states the time has not yet come for the enactment of the law, but I do not think there can be any difference of opinion as to the ultimate benefit that the people at large will derive from the system when it is finally put in operation.

President Terry :

The question is on receiving and filing the report and the continuance of the committee.

Hollis R. Bailey of Massachusetts:

Before a vote is taken it may interest the Conference to know that the act was adopted in Massachusetts by men who knew of the operation of the system in Australia. It was started as a voluntary system, and there has been a steady growth of sentiment in its favor.

Seneca N. Taylor of Missouri:

What is the cost under the Torrens System as compared with the cost under the old system in Massachusetts?

Hollis R. Bailey of Massachusetts:

To begin with, there is a cost proportionate to the value of the land and then the expense of examining title once for all, and after that the expense of transfer is very small indeed.

Seneca N. Taylor of Missouri:

How do you keep that up so that it will show the record all the time?

Hollis R. Bailey of Massachusetts:

When a title is registered the owner gets a certificate, much the same as the holder of a patent gets his Letters Patent, and when he wants to transfer the land that certificate is surrendered and a new one taken out in the name of the new owner at a cost of somewhere between five and ten dollars.

Seneca N. Taylor of Missouri:

Take a property that is worth \$10,000, what is the initial cost?

Hollis R. Bailey of Massachusetts:

Outside of counsel fees the expense would be about \$125 for the examination of the title, and there had to be a survey and a plan made every time under the old system.

Samuel Williston of Massachusetts:

I am of the opinion that this Commission will be efficient just in proportion to the fidelity with which it sticks to its original purpose—that is, the unifying of existing laws—and whenever it becomes the advocate of new things and new doctrines it will cease to have the influence it should.

Here is a statute that has been passed by four or five states out of 48, and we are asked to set about the uniformity of the laws, of the states on that subject. My idea is that we should restrict ourselves to advocating the making uniform of existing statutes.

The law relating to real estate is peculiarly local. There is much less need of uniformity of law in the several states as to the acquisition, alienation, descent and distribution of real estate than of most other things. When we come to deal with Negotiable Instruments which go over the whole country it is important that the law should be uniform; so also with respect to bills of lading.

For these reasons I am in favor of not doing anything with respect to this proposed law at this time.

President Terry:

The question is upon the motion to receive and file the report of the committee.

The motion was carried.

The remainder of this evening's session is now at the disposal of the Committee on Commercial Law.

On motion, the Conference resolved itself into Committee of the Whole for further consideration of the law of Partnership with Mr. Bailey in the Chair.

(Discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose and the President resumed the Chair.

The Committee of the Whole through its Chairman reported progress and asked leave to sit again, which request was granted.

President Terry:

The Conference will now stand adjourned until nine o'clock tomorrow morning.

THIRD DAY.

Friday, August 23, 1912, 9 A. M.

President Terry:

The Conference will be in order. I will ask any Commissioners who have come in since yesterday to rise and announce their names for the purposes of our record.

Nathan William MacChesney of Illinois:

At the close of the afternoon session yesterday I brought up the matter of the proposed change in the name of this body. Since then several Commissioners have stated to me that they thought something should be done about it, and now I formally move to amend Article I, Section 1, by inserting after the word "as" and preceding the word "Commissioners" the words "National Conference of."

President Terry:

Is the motion seconded?

Amasa M. Eaton of Rhode Island:

I will second the motion.

President Terry:

Is there any discussion?

Talcott H. Russell of Connecticut:

We have had that subject up before the Executive Committee, where it should properly go, and we considered it and were unanimously opposed to it. Now, having been once before the Executive Committee, and having succeeded in persuading the committee to bring the matter before the Conference, I do not think this body should overrule that action.

Furthermore, the suggestion as to the title of the Conference is misleading and erroneous. The purpose of the Conference is to provide for interstate legislation, not for national legislation. It does not recommend national legislation, and no acts recommended by this Conference go to Congress for action.

This matter of attaching some sort of a new nationalism idea to this Commission has come up time and time again. The matter has been brought before the Conference for the purpose of getting the Conference to recommend national legislation. For instance, the question of a national incorporation act was brought before the Conference, and an effort was made to get us to consider that subject, and we refused to do it on the ground that the scope of the Conference was not national, but was simply the purpose of making uniform existing state laws and initiating interstate legislation.

I submit, therefore, that the matter should be laid upon the table or else indefinitely postponed; and, in order to avoid further debate, I move that it be laid on the table.

Seneca N. Taylor of Missouri:

I will second the motion.

President Terry:

It is moved and seconded that the subject matter introduced by the gentleman from Illinois be laid on the table. All in favor of the motion will say aye; those opposed, no. The motion prevails and the matter is laid on the table.

Is there any further subject to be brought up before we proceed to the regular order?

Dr. Charles McCarthy of Wisconsin:

The discussion that took place over the marriage law yesterday causes me to rise and suggest a few matters to the Executive Committee. It seems to me that this body is weak in one particular. After we have put through an act there seems to be no particular way of getting it enacted into the law of the various states. Now I think that the Executive Committee ought to take up this matter. There ought to be a record in our proceedings to show what action is taken by the various state legislatures upon the bills that we have formulated and approved. I am convinced that this organization would make twice the progress that it does if there were some machinery by which the laws that we recommend here could be put through the legislatures of the various states.

I have nothing more to say, but I simply wish to leave this suggestion with the Executive Committee for them to think it over.

President Terry:

The remarks of the gentleman from Wisconsin are very timely and will doubtless be considered by the Executive Committee.

Judge Staake of Pennsylvania:

I think the report of the Executive Committee covers the matter to which Dr. McCarthy has referred. There is one thing that

is apparently overlooked. We are, in the first place, Commissioners on Uniform State Laws for our respective states. We could exist in our respective states as such Commissioners and study the subject of Uniform Legislation and report to our Governors and to our Legislatures and never attend this Conference at all.

I think the difficulty is that some Commissioners come and attend the Conference and then go back to their states and do not do anything, do not make a report to their Governors or to legislatures. The report of the Executive Committee shows that only five Commissioners made any report at all of the action of this Conference to the Governors of their respective states.

Now, if we come here in order to profit by cooperation and to report what had been done in the way of trying to get uniform measures adopted, so that it would be made a matter of record in our proceedings here.

Dr. Charles McCarthy of Wisconsin:

I might say that in Wisconsin we have taken the acts that you have here, and had a brief prepared referring directly to each section of the act, and to each section of the printed bill. There are sixteen or twenty copies made of the brief showing the cases in our own state bearing on the law and showing the proposed change in the law. We have found that kind of proceeding of great value. Under the old way of doing business many would look at the act and then throw it aside, and say "well, we will take it up sometime again"; with this brief before every member of the legislature he gets knowledge before him and is enabled to act understandingly.

Amasa M. Eaton of Rhode Island:

In order to crystallize this matter I am going to move an amendment to our Constitution by the insertion of a new section, to be called "Section 6"—in Article IV, entitled, "Duties of Members."

I will read the amendment and then move its reference to the Executive Committee. It is as follows:

"SECTION 6. It shall be the duty of the Commissioners from each state to introduce into their respective legislatures the

uniform acts adopted by the Conference and to endeavor to secure their passage."

Francis M. Burdick of New York:

I second the motion to refer that to the Executive Committee.

President Terry:

Gentlemen, you have heard the motion.

All in favor of the motion will say aye; opposed, no. The motion prevails and the amendment proposed by the gentleman from Rhode Island is referred to the Executive Committee.

C. P. Black of Michigan:

I am heartily in accord with such a change. I desire to state what the Commission in our state has done since our legislature last met. We have pursued, in Michigan, the plan of reporting to the legislature the uniform bills, that were approved by this Conference. Since our meeting at Chattanooga our legislature has met but once, and at that time we caused to be introduced each of the bills we approved. Residing at the capitol I took it upon myself to follow up the bills and I appeared before various committees. Most of the commercial bills were reported out, two of them passing one house, and one passing both houses, but we hope to get them through at the next session. I have been to the Governor and have secured his cooperation and he is going to incorporate in his next message to the legislature a recommendation that the bills which this Conference approves should be passed.

Clinton O. Bunn of Oklahoma:

Last year I introduced a resolution which had for its purpose the thing aimed at by Dr. McCarthy. It was referred to the Executive Committee, but was reported upon adversely. It will be remembered doubtless by those who were present at that time that while there was no discussion on the floor yet there was an apparent necessity for establishing some means whereby the work of this Conference could be furthered in the different states. I offered a resolution providing for an appropriation in each state whereby some committee might be appointed to take charge of

the matters in that state which this Commission had approved of. I simply call attention to the matter to show that the question of expense has a great deal to do with the attendance of Commissioners at this Conference from different states. If the expenses of the Commissioners were paid there would be a much larger attendance at these Conferences.

I heartily endorse the proposition made by the gentleman from Rhode Island, but I do not think it goes far enough; I think the Executive Committee should in some way provide the details.

President Terry:

The question is on the motion proposed by the gentleman from Rhode Island. All in favor of the motion will say aye; opposed, no. The motion is carried.

The special order of business now is the consideration of the Workmen's Compensation Act. Mr. Hollis R. Bailey, of Massachusetts, is Chairman of the committee.

The Conference then resolved itself into Committee of the Whole for the purpose of considering the proposed Uniform Workmen's Compensation Act, with Mr. Hart, of Louisiana, in the Chair.

(The discussion in Committee of the Whole is omitted.)

The Committee of the Whole arose and the President resumed the Chair.

The Committee of the Whole which had been considering the Workmen's Compensation Act, through its Chairman, reported progress and asked leave to sit again; which leave was granted.

President Terry:

I desire to announce that there are in attendance now 58 Commissioners representing 34 states.

AFTERNOON SESSION.

President Terry:

The Conference will be in order.

Samuel R. Williston of Massachusetts:

I have just received a communication to the effect that the United States Senate has passed the Pomerene Bill, so-called,

which is in substance the Uniform Bill of Lading Act approved by this Commission.

I do not suppose that at this stage of the session of Congress the bill can become a law, but it is at least gratifying to know that one branch of Congress has passed it without opposition.

The Conference then went into Committee of the Whole for further consideration of the proposed Workmen's Compensation Act with Judge Stevens, of Wisconsin, in the Chair.

(The discussion in Committee of the Whole is omitted.)

On motion the Committee of the Whole arose and the President resumed the Chair.

The Chairman of the Committee of the Whole which had been considering the Workmen's Compensation Act reported progress and asked leave to sit again; which leave was granted.

President Terry:

I will call upon the Chairman of the Executive Committee for a report from his committee.

Judge Staake of Pennsylvania:

Mr. President and gentlemen: The committee organized by electing Secretary Woolley as the Secretary of the committee.

The matter of uniform cold storage laws referred to by President Smith, was, by the terms of the resolution offered by the Commissioner from Louisiana, referred to the Committee on Purity of Articles of Commerce for consideration, bearing in mind Congressional legislation on the subject, and to report whether it is desirable for this Conference to consider the subject of a Uniform Cold Storage Law with authority to submit the draft of an act, so that action by the Executive Committee was not required.

The matter of Vital and Penal Statistics in connection with the meeting of the American Public Health Association and the United States Census Bureau was, on motion of Commissioner Smith, seconded by President Terry, referred to the Committee on Vital Statistics.

The matter of Uniform Boiler Inspection, which was referred to the Executive Committee by the Conference, was considered

by the committee and it was resolved by the gentlemen of the committee that the matter of uniform laws for the inspection of boilers was not within the purview of the work of the Conference, and that the Secretary should so notify the representative of the American Boiler Makers' Association, and that the application should be laid on the table.

The matter of Computation of Time was referred to a sub-committee of two members for consideration, with instructions to report to the Executive Committee at its next meeting.

The amendment to the By-laws, offered at this morning's session by Commissioner Eaton, was, with the approval of Mr. Eaton, reported back to the Conference with the statement that the matter was already covered by the provisions of Section 23 of the By-laws.

The Chairman of the committee was authorized to have five hundred copies of the Constitution and By-laws of the Conference printed, the form of the same being left to the discretion of the Chair.

The Executive Committee recommends to the Conference that the City Bank of New Haven be approved by the Conference as the place of deposit by the Treasurer of the funds of the Conference.

That comprises our report at this time.

M. G. Cunniff of Arizona:

I notice that reference is made to the matter presented by the gentleman here the other day who represented the boiler makers. I have an interest in the interpretation of the Constitution of the Commission by which it is determined that something does or does not come within the purview of the Association. I would like to know on what theory the committee arrived at that conclusion?

Judge Staake of Pennsylvania:

The committee arrived at that conclusion because if we take up the matter of the inspection of boilers there may be no end of subjects of inspections of different kinds which would be referred to us with a view of having our approval. If there is to be an

inspection of boilers there might be inspection of buildings and of nuisances and of any number of things. We thought that with the other important matters before the Conference—at least that was the unanimous judgment of the committee—it was hardly within the purview of the Conference to take them in hand.

M. G. Cunniff of Arizona:

Why isn't it proper simply to report that the matter was laid over? I object to the language by which it is stated that something ~~does~~ or does not come within the purview of our work. I do not like the precedent which may sometime be quoted to us.

Walter George Smith, of Pennsylvania:

I think our friend ought not to shrink from any precedent of that sort. The whole scheme of the Conference is to bring about uniformity in those measures where uniformity is necessary and desirable, but in case of boiler inspection so long as there is a good boiler inspection law in other states, why, that does not effect the general business of the country. I do not think we ought to go afield too far to find subjects, but we are to take those where by reason of diversity of jurisdiction inconvenience comes to the business world.

Samuel Williston of Massachusetts:

I should like to say a word in support of the arguments of the gentleman from Arizona. When the question was first raised I took at once the view off hand of the gentleman from Pennsylvania, but it seemed to be satisfactorily explained by the gentleman who spoke to the Conference the other day that it was very important to have the laws uniform, and not simply to have any law, because a manufacturer of boilers in Cleveland sends those boilers all over the country and it is important that he shall be obliged to satisfy merely one good system of inspection and not forty-eight systems. It seems to me that the law stands exactly on the same footing as the Child Labor Law, and, like the gentleman from Arizona, while I entirely agree that it would be better not to go into this business, I object to the ground upon which the report of the Executive Committee is based.

President Terry:

What shall be done with the report of the Executive Committee?

Amasa M. Eaton of Rhode Island:

I move that it be received. We may change our minds and take up the subject hereafter; I move that the report of the Executive Committee be received and placed on file.

The motion was seconded.

M. G. Cuniff of Arizona:

I think we ought to test this question, and, therefore, I move as an amendment to the motion that the language in the report which acts as a limitation upon our right to consider such a subject be stricken out.

W. O. Hart of Louisiana:

I rise to a point of order.

President Terry:

The gentleman will state his point of order.

W. O. Hart of Louisiana:

My point of order is that the hour of adjournment having arrived, that hour having been fixed by a vote of this Conference, the adjournment takes place automatically.

President Terry:

That point of order is well taken, and the further consideration of this matter will be postponed until the session tomorrow morning.

The Conference will now take a recess until 8 o'clock this evening.

EVENING SESSION.

President Terry:

The Conference will be in order.

John C. Richberg of Illinois:

I move that the Conference now go into Committee of the Whole on the Uniform Incorporation Act.

The motion was seconded, and the Conference resolved itself into Committee of the Whole with Mr. Glass, of Texas, in the Chair.

(The discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose and the President resumed the Chair.

The Chairman of the Committee of the Whole which had had under consideration the Uniform Incorporation Act, reported progress and asked leave to sit again; which leave was granted.

President Terry:

The Conference will now adjourn until tomorrow morning.

FOURTH DAY.

Saturday, August 24, 1912, 9 A. M.

President Terry:

The Conference will be in order.

The President then announced the appointment of committees for the Conference for the ensuing year.

President Terry:

It is my duty to convey to the Conference a message received from Commissioner David L. Withington, of Honolulu, in which he says:

"Until the last few days I had expected to be able to attend the Conference this year, but unforeseen circumstances have prevented. However, I beg to assure you of my continued interest in the work, as well as that of my colleagues here."

Walter George Smith of Pennsylvania.

May I say that a letter of regret has also been received by me from Mr. Bromberg of Alabama.

W. O. Hart of Louisiana:

I have also received a letter to the same effect from Mr. Ingersoll of Tennessee.

President Terry:

I was in receipt yesterday afternoon, through the good offices of our friend and colleague, Senator Thornton, of Louisiana, of

a letter with reference to the Bills of Lading Act which is now having the attention of Congress. The communication was addressed to me by Senator Pomerene, the sponsor of the bill in the Senate, and announced the fact, which you have already learned, that the bill passed the Senate, and the Senator stated that he conveyed the information at the request of Senator Thornton, who is one of our Commissioners.

There was a matter left over at yesterday's session, I believe, calling for the attention of the Executive Committee, and I recognize Judge Staake.

Judge Staake of Pennsylvania:

I have consulted about the matter with a number of the members of the Executive Committee, and it is thought that it would be better to change the language of the resolution of yesterday to which objection was made; that is, the statement that it was not within the purview of the work of the Conference to enter upon the subject of a Uniform Boiler Inspection Law. While I have not seen all the members of the committee, if there are any of them here and they have any objection to the alteration that is made I will ask them to state it. The change is merely in the recital in the way of preamble, and the language as changed will read as follows:

That as to the matter of a Uniform Law for the Inspection of Boilers it is not deemed advisable to take up the matter of uniform boiler inspection laws at this time; that the Secretary of the Conference notify the representatives of the American Boiler Makers' Association of this action, and that the application be laid on the table.

Amasa M. Eaton of Rhode Island:

I move that the subject of a Uniform Boiler Inspection Law be again referred to the Executive Committee, and for this reason: I was very much impressed by the argument presented when the matter was first brought up as to the necessity for such a uniform law owing to the fact that there will be trouble and there is trouble if there is not such a uniform law because boilers are made in one state and used in all the states of the country, and it seems to me that there should be a uniform law so that

boiler manufacturers may know what the tests are that they have to meet in the various states.

Of course, no action can be taken upon the matter at the present session, but it seems to me that it should be again referred to the Executive Committee.

W. O. Hart of Louisiana:

I move to amend that motion by committing the matter to a special committee of five, to be appointed by the Chair, which committee shall examine into the subject and report at the next Conference.

Amasa M. Eaton of Rhode Island:

I will accept that amendment.

Dr. Charles McCarthy of Wisconsin:

I will second that.

Clinton O. Bunn of Oklahoma:

I am heartily in favor of that, and I think it is a matter that should receive deliberate and careful attention at the hands of this Commission.

Ernst Freund of Illinois:

It seems to me that the term "boiler inspection" has given rise to a misapprehension. What is desired is, as I understand it, a law in regard to the manufacture of boilers, not a law in regard to the inspection of boilers.

President Terry:

The Chair understands the motion to be, as stated by Mr. Hart, Mr. Eaton having accepted his language, that a special committee be appointed to consider the entire subject of boiler construction as well as boiler inspection. Is there further debate upon the motion? If not, all in favor of the motion will say aye; opposed, no. The motion is carried. The members of the committee will be named later.

Judge Staake of Pennsylvania:

I am asked to announce that there will be an important meeting of the Committee on Marriage and Divorce in this room at

9 o'clock Monday morning, and the members of that committee are requested to take notice accordingly.

W. O. Hart of Louisiana :

I desire to offer and have referred to the Executive Committee a proposed Uniform Law Relative to Expert Testimony, and I present as that law, the law of Maine adopted in 1907. I move that it be referred to the Executive Committee for such action as that committee may deem proper.

The motion was seconded.

President Terry :

If there is no objection, it will take that course without a motion. There being no objection, it is so ordered.

W. O. Hart of Louisiana :

I also offer a law adopted in Louisiana, as a basis for the drafting of a uniform act to prevent the desecration of the American Flag, and ask that this be referred to the Executive Committee.

President Terry :

If there is no objection it is so ordered.

W. O. Hart of Louisiana :

In behalf of the Committee on Wills, Descent and Distribution, I desire to state that we have prepared the draft of a proposed act, and I ask that it be printed as a part of our proceedings, and that the committee be authorizd to have the same printed in pamphlet form, with such annotations as the Legislative Drafting Bureau, which has been employed in the matter by resolution adopted last year, may prepare so that the same can be sent out to the Commissioners before the next Conference.

The motion was seconded and carried.

W. O. Hart of Louisiana :

I ask that the statement which I have now made, together with the draft of bill, be received and considered as the report of the committee for this year.

President Terry :

The Chair hearing no objection, it is so ordered.

The Conference then resolved itself into Committee of the Whole for further consideration of the Workmen's Compensation Act with Mr. Eaton, of Rhode Island, in the Chair.

(The discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose and the President resumed the Chair.

The Chairman of the Committee of the Whole reported progress in the consideration of the Workmen's Compensation Act and asked leave to sit again, which leave was granted.

President Terry:

We will now adjourn until half past two o'clock.

AFTERNOON SESSION.

President Terry:

The Conference will be in order.

The special order for this afternoon is the report of the Committee on the Situs of Real and Personal Property for the Purposes of Taxation.

Ernst Freund of Illinois:

Mr. President and gentlemen: The report has been printed and is in the hands of the Commissioners.

(The report of the Committee follows these minutes.)

Walter George Smith of Pennsylvania:

I move that the report be received and the committee continued, with instructions to give further consideration to the subject, and to consult with such other persons or organizations as may seem wise to them, and to report their further conclusions at the next Conference.

The motion was seconded and carried.

President Terry:

The balance of the afternoon is at the disposal of the Committee on Commercial Law.

The Conference then resolved itself into Committee of the

Whole for the purpose of further considering the proposed Uniform Law of Partnership.

(The discussion in Committee of the Whole is omitted.)

The Committee of the Whole arose and the President resumed the Chair.

The Chairman of the Committee of the Whole which had been considering the proposed Uniform Law of Partnership reported progress and asked leave to sit again; which request was granted.

President Terry:

I will now call on the Chairman of the Executive Committee to make a report on the matters referred to that committee during the last two days.

Judge Staake of Pennsylvania:

The matter relative to the prevention and punishment for the desecration of the American Flag received the consideration of the committee. On motion it was voted to recommend the appointment of a special committee of three persons to consider the subject, and, if it should deem the same advisable, to draft a bill.

The matter relative to an act in respect of expert testimony was considered, and on motion, it was voted to recommend the appointment of a special committee of three to consider the subject, and if in their judgment it was deemed best, to suggest a bill so far as it relates to criminal procedure and to call the same to the attention of the American Institute of Criminal Law. As for the rest of the proposed act, the committee is of the opinion that it does not fall within the province of the Conference.

W. O. Hart of Louisiana:

I move that the report be received and the action of the committee endorsed.

The motion was seconded and carried.

President Terry:

Is there any other business to come before the Conference this afternoon? The Chair, hearing none, declares an adjournment until Monday morning at half past nine o'clock.

FIFTH DAY.

Monday, August 26, 1912, 9.30 A. M.

President Terry:

The Conference will please be in order. The Chair will now announce the appointment of the committees, provision for which was made in the resolution passed by the Conference at its sessions last week.

The President then announced the appointment of the members of the Special Committee on a Uniform Law Relating to Boilers and Their Inspection and the Special Committee on Legislation Relating to the Use of the Flag.

President Terry:

The Chair will now listen to a motion relating to any matter which should be taken up incidentally. There is an opportunity afforded now, in the absence of the Chairman of the Committee on the Uniform Incorporation Law to take up briefly any matter which any member of the Conference has in mind. If there is no such matter the Chair will entertain a motion to go into Committee of the Whole for the further consideration of the Uniform Incorporation Law.

On motion duly made, seconded and carried, the Conference then resolved itself into Committee of the Whole for the further consideration of the proposed Uniform Incorporation Law with Mr. Bailey, of Massachusetts, in the Chair.

(The discussion in Committee of the Whole is omitted.)

On motion the Committee of the Whole arose and the President resumed the Chair.

The Chairman of the Committee of the Whole which had had under consideration the Uniform Incorporation Law reported progress, and asked leave to sit again, which leave was granted, if the time permitted.

Walter George Smith of Pennsylvania:

I ask leave to introduce a resolution and have it referred to the Executive Committee for consideration and report, on a matter that is pending before the American Bar Association.

The resolution was not read.

President Terry:

The resolution referred to by the gentleman from Pennsylvania will be referred to the Executive Committee.

W. O. Hart of Louisiana:

I move that the Executive Committee in preparing the program for next year's Conference consider the advisability of allotting time for the completion of the discussion of any one act that may be before the Conference instead of dividing up the time as has been done.

The motion was seconded and carried.

President Terry:

We will now take a recess until half past two o'clock.

AFTERNOON SESSION.

President Terry:

The Conference will be in order.

Talcott H. Russell of Connecticut:

Mr. President and members of the Conference: I wish to offer the following resolution:

Resolved, That the proposed draft of a Uniform Partnership Act be recommitted to the Committee on Commercial Law with direction to report the recommendation thereon at the next meeting of the Conference and that the committee be further authorized in its discretion to prepare and report a Uniform Limited Partnership Act and to incur such expense for expert assistance as may be approved by the Executive Committee.

The resolution was adopted.

Edward W. Frost of Wisconsin:

Mr. President and members of the Conference: The Commissioners who were present on Thursday afternoon will remember that the act proposed by the Committee on Marriage and Divorce, to prevent the evasion of the marriage laws by persons under disability to marry in their own state and going into other states to evade that law, that the report met with two objections. One objection made to the report of the committee was

that the draft of the act permitted one person alone to perpetrate the evasion and did not sufficiently protect an innocent party. The other objection was that the clause providing that the party or parties should never return and reside in the state was left out, and that it should go in. A motion was thereupon made by Professor Freund to recommit the bill. That motion was defeated, but by such a respectable minority, as I stated at the time, that the committee of its own motion would accept a re-commitment of the bill, after debate was had, and would report upon it again this afternoon

Now, sir, the committee has had many conferences and has had many amendments before it, and it is ready to report. The committee is divided. That is, Professor Freund, who unfortunately could not be with us today, brought in a minority report in which he was seconded by Mr. Russell, who kindly sat with the committee. They said that one person should not be able to commit this evasion, which will result in nullifying the marriage, but that both parties must join in the intent to be married in evasion of the laws of their states and must intend to return and reside in the state from which they came. The majority of the committee does not approve of that, for the reason that we think it would be exceedingly hard in any case to prove that the woman in the case had any intent whatever except to be lawfully married. When it came to property rights or the litigation of children almost any woman, and certainly any man would swear that there was no intent to evade the law. Therefore, we think that if both parties must conspire to evade the law, the law would be nullified. Therefore, the majority of the committee presents this:

(The act as presented, after amendment, by the committee, is omitted.)

Talcott H. Russell of Connecticut:

I ask that the roll call of states be had on this question.

On a vote by states the act as recommended by the committee was approved.

W. A. Blount of Florida:

On behalf of the committee appointed to cooperate with the American Institute of Criminal Law and Criminology, a report has been handed to me which suggests a uniform law on the question of indeterminate sentences. It seem to me that the suggestion of uniformity is one that ought to be acted upon, and, therefore, I move to refer this report to the Executive Committee with directions to report to the next Conference as to whether or not such a uniform law is desirable.

The motion was seconded and carried.

Amasa M. Eaton of Rhode Island:

Last year the Committee on Conveyances made a report with a draft of an act which, at the suggestion of the committee, was ordered printed and laid over to be taken up this year. With the permission of the Conference I would like to read a part of the report and submit a very short form of uniform law that is recommended.

Part of the report was read.

The committee recommends the adoption of this form as a Uniform Law for the Conveyance of Land.

President Terry:

Is the recommendation of the committee to which the Conference has just listened, seconded?

Clarence N. Woolley of Rhode Island:

I second it.

President Terry:

The report of this committee has heretofore been received and filed, so that the only question remaining is whether the Conference at this time is prepared to adopt the act presented by the committee.

Seneca N. Taylor of Missouri:

I have not had time to consider this form of the law, and I would much prefer that it would be laid over until the next Conference so that I may have an opportunity to study it, and I suppose others would also like a similar opportunity.

Amasa M. Eaton of Rhode Island:

The committee has no objection to the matter being laid over if there is a general desire for it.

President Terry:

Then the Chair understands that the Chairman of the committee withdraws his motion to have the report and the law adopted?

Amasa M. Eaton of Rhode Island:

Yes, I will withdraw it at present with the understanding that it be taken up next year.

President Terry:

There being no objection that course will be followed.

President Terry:

Gentlemen, we will now turn our attention to the further consideration of the Workmen's Compensation Act, and, Mr. Bailey, of Massachusetts, the Chairman of that committee, has the floor.

Hollis R. Bailey of Massachusetts:

I will give notice of a motion that I propose to make later, that the Compulsory Workmen's Compensation Act be approved for the time being and the committee continued with authority to report at some later meeting of the Conference a revised edition of the act.

The feeling of the committee was that this matter stands a little differently from the commercial acts adopted by the Conference. As we all know, the subject is and the country is looking for some action by this body at this time, but we wish to keep the matter sufficiently open so that we may have a revised edition of the act prepared a year or two years hence.

Hollis R. Bailey of Massachusetts:

I now make the motion that I gave notice I would make, namely: I move that the act be approved for the time being, and the committee continued with power to report at some later Conference a revised edition of the act, and that the draftsman and

the Chairman of the committee have authority before printing to make such changes in the matter, as to form, as may be necessary to make the act as finally approved conform to the intention of the Conference as expressed, and also that the committee have power to secure expert assistance.

My reason for making the motion in this way is that this is a somewhat new subject in this country, a matter which is experimental, and we shall doubtless learn considerable during the next year as there is going to be a great deal of discussion on the subject. A great many organizations are looking to this Commission to see what our action is going to be, and I think if we put the act out in this way it will go far towards securing uniformity of legislation on the subject.

Walter George Smith of Pennsylvania:

I second the motion.

M. G. Cunniff of Arizona:

I would like to ask what the committee proposes in regard to an elective form of act?

Hollis R. Bailey of Massachusetts:

The committee understands that the Conference has already expressed itself in favor of drafting the compulsory form of act.

Rome G. Brown of Minnesota:

Lest it be understood that the act goes out as finally approved I think there should be included in the wording of the motion made by Mr. Bailey the word "tentatively."

Hollis R. Bailey of Massachusetts:

If it were sent out in that way it would not have quite the effect that we desire it to have.

Talcott H. Russell of Connecticut:

I think the words used by the committee are somewhat ambiguous. I think the word "tentative" should be put in.

Rome G. Brown of Minnesota:

Do you make that as a motion?

Talcott H. Russell of Connecticut:

Yes.

Rome G. Brown of Minnesota:

I will second it.

Seneca N. Taylor of Missouri:

The legislatures of all the states will meet before this Conference meets again. If, as the vote already taken indicates, it is the present judgment of the majority of us that this act ought to be adopted and we send it out pursuant to Mr. Bailey's motion, it is our judgment that the act is fair and just. With the restriction that the committee has of further considering, we will say to the legislatures: "While this is our present conviction yet we may make some changes in it in the future."

M. G. Cuniff of Arizona:

This compulsory act would be unconstitutional in my state; the elective act would not. Now if this compulsory act is to have our approval for the time being it seems to me that the elective act should also have the same approval.

Rome G. Brown of Minnesota:

I am in favor of a Workmen's Compensation Act generally upon these lines, and neither I nor my associates fail to appreciate the work that this committee has done, but this is a measure that is not strictly and technically within the line of uniform legislation. The work of this Commission heretofore, in the adoption of the various commercial acts that it has put forth, has met with approval from all parts of the country. Now, upon this important up-to-date subject, for us to put out an act in terms that may be understood to mean that we as lawyers approve of it in form, yet we have reserved the right to change or modify or alter it, is to put ourselves before the country in rather an unfortunate light. It will be the first time in the history of this Commission that we have put out any act with such a reservation.

Walter George Smith of Pennsylvania:

Why should we not follow the time honored custom, where we are in doubt about a thing, and call it a tentative act? This

committee has given us their best thoughts and they have nothing to add to their report after months of work. Now let it be a tentative report and let the committee be continued.

Rome G. Brown of Minnesota:

Yes, let it go forth tentatively and do not put us on record as having approved of the act. I approve it tentatively but I am not willing to approve it "for the time being," and I do not want this Conference to go on record in those words.

Hollis R. Bailey of Massachusetts:

On reflection the committee will accept the suggestion that has been made. Therefore, I will amend my motion by having it read that the act is approved "tentatively" and the committee continued.

Rome G. Brown of Minnesota:

If that is the motion, I will second it.

Talcott H. Russell of Connecticut:

And I will withdraw the substitute that I offered.

The motion was carried.

M. G. Cunniff of Arizona:

I move that the elective form of act be also tentatively approved in the same way.

Clinton O. Bunn of Oklahoma:

I second that motion.

The motion was lost.

Henry C. Hall of Colorado:

I suggest that in sending out the tentative text of the compulsory act, there be also sent out a text of the elective act modified to correspond.

Hollis R. Bailey of Massachusetts:

The committee will do that.

W. O. Hart of Louisiana:

I ask unanimous consent to take up the matter of the desecration of the American Flag which I brought up the other day

and which was referred to the Executive Committee, and reported out with the recommendation that the Chair appoint a committee of three upon it. I am of the opinion that the committee should be enlarged and composed of at least five members.

The unanimous consent was given.

W. O. Hart of Louisiana:

I move that the committee when appointed shall consist of five members.

The motion was seconded and carried.

President Terry:

The membership of that committee will be as follows: George W. Bates, of Michigan, Chairman; Nathan William MacChesney, of Illinois; Henry C. Hall, of Colorado; Henry Stockbridge, of Maryland; W. O. Hart, of Louisiana.

Henry C. Hall of Colorado:

As many of the state legislatures will convene in January next, I offer the following resolution:

"*Resolved*, That the Executive Committee be and it is hereby requested to arrange if practicable to secure the attendance of a quorum of the Conference for a meeting to be held before January, 1913, for the purpose of further considering and acting upon such proposed uniform laws as may have been recommitted at this meeting, and for any other purpose which shall be indicated in the call."

The resolution was seconded, but upon being put to a vote was lost.

John C. Richberg of Illinois:

I move that the Conference go into Committee of the Whole for the purpose of further considering the provisions of the Uniform Incorporation Law. We have some business to consider in connection with that law that will take only a very short time.

The motion was seconded and carried, and the Conference resolved itself into Committee of the Whole for further consideration of the Uniform Incorporation Law, with Mr. Bailey, of Massachusetts, in the Chair.

(The discussion in Committee of the Whole is omitted.)

The Committee of the Whole then arose and the President resumed the Chair.

Hollis R. Bailey of Massachusetts:

Mr. President: The Committee of the Whole which has had under consideration the proposed Uniform Law of Incorporation has passed a resolution that the proposed act be referred back to the committee with instructions to redraft the same and present a revised act at the next Conference.

The report was received.

Judge Staake of Pennsylvania:

I desire to report on behalf of the Executive Committee that the special committee to whom was referred the matter of the computation of time reported that in their opinion the Conference ought to prepare an act respecting the matter. Therefore, upon motion of Commissioner Smith, seconded by Commissioner Taylor, it was voted to recommend that a committee of three be named by the Conference to prepare such act.

Walter George Smith of Pennsylvania.

I move that the recommendation of the Executive Committee be approved and the committee referred to appointed by the Chair.

The motion was seconded and carried.

Judge Staake of Pennsylvania:

The Executive Committee also gave consideration to the subject of a complete uniform system of the law of pleading, and on behalf of the committee I report that while we heartily approve of the object in view we deem it inexpedient for the Conference to take up the matter for consideration at this time.

Walter George Smith of Pennsylvania.

I move that the Conference approve of the recommendations of the committee.

The motion was seconded and carried.

President Terry:

Is there any further business to come before the Conference?

W. O. Hart of Louisiana:

Before the Conference adjourns I desire to offer the following resolution:

"Resolved, That the thanks of this Conference be and they are hereby extended to R. B. Mallory, President of the Milwaukee Bar Association, for his cordial address of welcome; to the Bar of Wisconsin for various courtesies shown to the members of this Conference; to the Judges of the United States courts for giving us the use of the room in which our sessions have been held; to the Milwaukee Athletic Club, to the Milwaukee University Club, and to the members of the press of Milwaukee, all of which have extended courtesies to the members of this body.

Peter W. Meldrim of Georgia:

I second the adoption of that resolution.

President Terry:

Gentlemen, all in favor of the resolution of thanks offered by the gentleman from Louisiana, will manifest it by rising. It is unanimously carried.

Hollis R. Bailey of Massachusetts:

I move that the Conference adjourn, subject to the call of the Chair.

The motion was seconded and carried.

President Terry:

The Conference is adjourned, subject to the call of the Chair.

CLARENCE N. WOOLLEY,
Secretary.

PRESIDENT'S ADDRESS.

BY

WALTER GEORGE SMITH.

PROGRESS OF UNIFORM LEGISLATION.

Eleven legislatures have held regular sessions during the past year,¹ another will meet in October,² and one legislature has held an extra session.³ Uniform acts were passed in Maryland, Massachusetts, Louisiana, Mississippi and Rhode Island.

As will appear from the report of the Executive Committee, the reports of the Commissioners show that in all, or nearly all, of the states in which sessions were held efforts were made by them to secure uniform legislation, and in only one did they fail by reason of the Governor's veto. In New York, the Uniform Stock Transfer Act was passed for a second time, and for a second time it was vetoed by the Governor for undisclosed reasons, without according a hearing to the Commissioners.

Committees of the Conference, charged with the responsibility for pending business, have held meetings from time to time, some of which have been attended by the President as an *ex officio* member. An undiminished zeal and steady progress in solving the problems before them distinguished all of these meetings. It is gratifying to know that in the comparatively few states that have not yet passed any of the uniform acts, especially Vermont, Indiana and Georgia, there is evidence of an aroused sentiment that will doubtless bring about satisfactory results.

In his report to the Governor of one of the states that has persistently ignored the work of the Conference, a Commissioner expresses his mortification because his state has made no appropriation for the general expenses of the Conference. While sym-

¹ Kentucky, Maryland, Massachusetts, Mississippi, New Jersey, New York, Rhode Island, South Carolina, Virginia, Louisiana, Georgia.

² Vermont.

³ Michigan.

pathizing strongly with his feeling, most of us will realize that some of the states that have availed themselves of the work of the Conference by adopting its measures are much less consistent than those which have not yet recognized their value. We have all been embarrassed because of the inadequate financial support we have received. Had it not been for the generous devotion of very many of the Commissioners, who have paid their own traveling, hotel and other expenses, our work could hardly have made as much progress as it has. The recent appropriation by the states of Wisconsin and Minnesota have been most timely, and it seems reasonably certain that our financial situation will steadily improve.

Commenting upon the Treasurer's report for the year 1911, an editor notes that:

"Last year six states paid the expenses of a Commission which is drafting the laws of forty-seven states who have representation on the Commission. These states are New York, \$500; Connecticut, \$300; Pennsylvania, \$300; Massachusetts, \$100; Utah, \$100; Rhode Island, \$100. This, together with special contributions from the American, Illinois and New York Bar Associations, represent an income of little over \$2000."

As Mr. Terry justly says:

"The time and energies which many of the Commissioners have been giving to this work are beyond price. There remains, however, this consideration: That there are many things which this Conference must have and which it must pay for. There are expenses connected with the administration of this body. Those expenses, if we are to maintain our independence and individuality, must come from the states which have appointed us as their representatives. From time to time suggestions have been made of ways and means for procuring action on the part of the respective states along these lines, and from time to time such action has been had."

Mr. Terry then calls attention to the good work done by one of our Commissioners from Illinois,* who,

"Finding that the legislature of Illinois was not in a mood to make its contribution in such form as to enable the Commission to avail itself of it, he went to his State Bar Association and

* Commissioner MacChesney.

stated the purposes of the Commission and the work it was doing, and it contributed to the fund for the general work of this Conference. If we are to maintain our independence and our disinterested action, we must have a continuance of that kind of work and we must have ample funds.”*

It is gratifying to find that the legal journals and magazines are not oblivious of the importance of our purposes. Two of them have issued special numbers devoted to an exposition of the history and accomplishments of this Conference.⁶ I think it may be apposite to quote from the comments of the editors. One says:

“The evils of diversity in state laws are obvious. It is particularly to be desired that the commercial laws of the country be uniform to obviate confusion, and the hope that this end will be realized finds its encouragement in those powerful tendencies which make for uniformity of commercial usage, not only in this country but throughout the world. Uniformity of commercial law is more than a theory; it is actual conquest of the citadel of law by the forces of commercial usage. All that legal conservatism which resists the progress of this movement is foredoomed to defeat, and its triumph is so certain that it stands not so much in need of champions as of henchmen. The work which is in the hands of the Committee on Commercial Law of the Uniform State Laws Conference is thus one which does not call for an active propaganda, but rather for intelligent cooperation of existing active agencies in the labors which this body has under way. . . .

“In other fields than that of commercial law the forces which make for uniformity are less powerful. In some subjects, indeed, uniformity may be unattainable because of fundamental differences between the institutions of various sections. The Conference . . . wisely keeps within bounds in advocating only that uniformity which seems consistent with due recognition of local exigencies. Scarcely any subject more imperatively demands uniform legislation than that of divorce, not that differences in the way this subject is regarded in different states may be reconciled, but chiefly that confusing questions of jurisdiction may be resolved, and that the decrees of one state may be enforceable in another. This subject, like that of the taxation of property outside a state, and that of the probate of foreign wills, is of concern not to one state alone but to the entire community of states. . . .

* 74 Central Law Journal, p. 10.

⁶ The Green Bag, Vol. 23, No. 12; Central Law Journal, Vol. 74, No. 1.

"In another group of subjects, falling possibly within the classification of social legislation, *e. g.*, child labor and workmen's compensation, the necessity for uniformity may be less clearly evident, but the advantages of model uniform acts, drawn with the best legal skill obtainable, such as that afforded by the Conference, are sufficiently plain. . . ."

Another says:

"It is true that, although commissioned by the Governor or the legislature of their respective states, the Commissioners do not work under pressure of any kind, and by disposition and training are not men who are impatient for quick results. . . .

"In drawing up a code of laws that is expected to abide the test of time and intense controversy, the important thing is not haste, but accuracy, careful phrasing and the exact use of words to avoid confusion and reduce the necessity for construction on the part of the courts to a minimum. The most noticeable characteristic of much modern legislation is the haste with which it is enacted, as if the most important thing about a proposed bill was to get it on the statute books as quickly as possible. . . . If all proposed laws of a general nature were first submitted to the careful consideration of a body of experts like the Commissioners on Uniform State Laws, they would seldom fail of their purpose and would give rise to very few serious problems for courts to unravel. . . .

"The desire for uniformity . . . is still a beacon light of hope to those interested in the work of the Commission. . . . The variance in the decisions . . . which construe such acts as the Negotiable Instruments Law is comparatively slight and not sufficient to occasion any discouragement. Moreover, the courts are showing an increasing tendency to be governed by the weight of authority in other states in construing uniform laws, and the Commission has the opportunity at intervals of correcting discrepancies or variances by suggesting uniform amendments, which serve the double purpose of perfecting the law itself and adapting it to some changed situation as well as of maintaining the desired uniformity."*

It will be seen that appreciation of the purposes and accomplishments of this Conference is widening, and, however slowly, results are being achieved that are well worthy of the efforts they cost.

* 23 The Green Bag, p. 654.

* 74 Central Law Journal, pp. 1, 2.

THE NEGOTIABLE INSTRUMENTS LAW.

The report of the Committee on Commercial Law will deal with proposed amendments to this, the first and probably the most important of what have been properly called the American Uniform Commercial Acts. Without waiting for the action of the committee, an act was passed in Massachusetts relative to the liability of a bank for the payment of forged negotiable instruments. This act provides that 'unless within one year after the return of a negotiable instrument to a depositor he shall notify the bank in writing that it is forged, or was made or endorsed without authority, or that it has been materially altered, the bank shall not be liable to the depositor on account of the payment of such instrument.'

A number of decisions have been rendered by the various state courts making reference to sections of the Negotiable Instruments Law, as will appear by the citations given in the notes."

* Acts Mass., 1912, ch. 277.

"Nebraska (from Commissioner R. W. Breckenridge): *Hartington National Bank vs. Breslin*, 88 Neb. 47, interpreting Section 14 (Blanks, when they may be filled); *Aurora State Bank vs. Hayes-Ames Elevator Co.*, 88 Neb. 187, interpreting Section 30 (What constitutes negotiation?); *Gruenther vs. Bank of Monroe*, 90 Neb. 280, interpreting Section 188 (Effect, where the holder of check procures it to be certified).

Missouri (from Commissioner Seneca N. Taylor): *Stephenson vs. Joplin State Bank*, 160 Mo. App. 47 (Where a note shows on its face that a party executed it as principal, he cannot contradict his written obligation by parol); *Lehnhard vs. Sidway*, 160 Mo. App. 83 (Question of acceptance by separate writing).

Washington (from Commissioners W. B. Tanner and Charles E. Shepard): *Barker vs. Sartori*, 66 Wash. 260 (The sum payable is a sum certain within the meaning of the act, although it is to be paid by stated instalments); *First National Bank vs. Sullivan*, 66 Wash. 375 (Defining an unqualified promise to pay, though coupled with an indication of a particular fund); *Am. Saving Bank & T. Co. vs. Hilgesen*, 64 Wash. 54 (Usury is not available as a defence to the maker of a note to an innocent holder for value before maturity); *Citizens' Savings Bank vs. Houtchins*, 64 Wash. 275 (Whether party plaintiff was a *bona fide* holder for value before maturity, the title of

An interesting quotation is furnished from a Massachusetts case on the proper method of interpreting the act:

"It is a matter of common knowledge that the Negotiable Instruments Act was drafted for the purpose of codifying the law upon the subject of negotiable instruments and making it uniform throughout the country through the adoption by the legislatures of the several states and by the Congress of the United States. The design was to obliterate state lines as to the law governing instrumentalities so vital to the conduct of interstate commerce as promissory notes and bills of exchange, to remove the confusion or uncertainty which might arise from conflict of statutes or judicial decisions amongst the several states, and to make plain, certain and general the controlling rules of law. Diversity was to be moulded in uniformity. This act in sub-

the original payees having been defective); *Ekre vs. Cain*, 66 Wash. 659 (An oral guarantee of a note turned over in payment of the guarantor's indebtedness is sufficient guarantee for subsequent written guarantee of its payment); *State vs. Garland*, 65 Wash. 666 (A certificate of deposit endorsed and delivered to defendant answers all the requirements of a check and became in law and was in fact a check).

Idaho (from Commissioner James E. Babb): *Sheffield vs. Cleland*, 115 Pac. Rep. 21 (Sect. 7. A reasonable time within which to present a promissory note endorsed after maturity); *Smith vs. Field*, 114 Pac. Rep. 668 (Sect. 12. The effect of certification of check is to fix the liability of the bank from the time of certification, irrespective of the date which the check bore); *Shellenberger vs. Nourse*, 118 Pac. Rep. 508 (Sect. 52. Where a note was shown to have been obtained by fraud, the burden of proof shifted to the holder to show *bona fides*); *Frost vs. Harbert*, 118 Pac. Rep. 1095 (A contract of guarantee that a note is good is a separate obligation of the guarantor and becomes absolute on the default of the maker of the note).

Florida (from Commissioner Simonton): *Taylor vs. American National Bank*, 57 So. Rep. 678 (A note is negotiable, though bearing interest and accompanied by a mortgage on real estate, which contains provision that upon default of payment of any instalment of interest, the whole amount of the note shall then be due).

Virginia (from Commissioner Massie): *City National Bank vs. Hundley*, 112 Va. 57 (touching Section 56 on notice of defect); *Reid's Admin'r vs. Windsor*, 17 Va. L. R. (touching Section 24 on presumption of consideration).

New York (from Commissioner Terry): *Pavenstedt vs. New York Life Ins. Co.*, 203 N. Y. 91; *National Park Bank vs. Koehler*, 204 N. Y. 174; *Martz vs. State National Bank*, 131 N. Y. Supp. 1045; *Muller vs.*

stance has been adopted by many states. While it does not cover the whole field of negotiable instrument law, it is decisive as to all matters comprehended within its terms. It ought to be interpreted in such a way as to give effect to the beneficent design of the legislature in passing an act for the promotion of harmony upon an important branch of the law. Simplicity and clearness are ends especially to be sought. The language of the act is to be construed with reference to the object to be attained. Its words are to be given their natural and common meaning and the prevailing principles of statutory interpretation are to be employed. Care should be taken to adhere as closely as possible to the obvious meaning of the act, without resort to that which had heretofore been the law of this commonwealth, unless necessary to dissolve obscurity or doubt, especially in instances where there was a difference in the law in the different states. Ap-

Kling, 149 App. Div. 176 (The N. I. L. is declaratory of the common law rules as they existed before its enactment); *St. Lawrence Co. Bank vs. Watkins*, 135 N. Y. Supp. 461 (as regards presumption of consideration for every negotiable instrument); *Riddle vs. Bank of Montreal*, 130 N. Y. Supp. 15 (A bill of exchange payable on demand and drawn upon a bank is a check); *Springs vs. The Hanover National Bank*, 130 N. Y. Supp. 87 (case of genuine draft with forged bill of lading attached); *National Bank vs. Kennedy*, 45 App. Div. 669 (Oral request over telephone not a presentment); *Dumbrow vs. Gelb*, 130 N. Y. Supp. 182 (Addition of words "with interest" not permitted in filling up blank); *Pavenstedt vs. New York Life Ins. Co.*, *supra* (Discusses doctrine of re-exchange as being damages); *Martz vs. State National Bank*, *supra* (Question of endorsement by joint payees and transfer of instrument where one payee dies); *National Park Bank vs. Koehler*, *supra* (Test as to discharge of an endorser by granting of an indulgence to the party primarily liable); *Shattuck vs. Guardian Trust Co.*, 204 N. Y. 200 (Discusses Section 326, providing that no bank shall be liable on a forged check unless notified of the forgery within one year after return to depositor); *Stein vs. Empire Trust Co.*, 133 N. Y. Supp. 517 (Right of bank to cancel credit of check on discovering payee's name was forged); *Hodgens vs. Jennings*, 133 N. Y. Supp. 584 (As to joint and several liability); *Muller vs. Kling*, *supra* (Discusses facts necessary to make a draft an equitable assignment of funds against which draft is drawn); *Baer vs. Hoffman*, 135 N. Y. Supp. 28 (Waiver of notice of dishonor is not waiver of presentment for payment); *Lyons vs. Union Exchange National Bank*, 135 N. Y. Supp. 121 (Question of certification of check); *Columbia Distilling Co. vs. Rech*, 135 N. Y. Supp. 206 (Question of material alteration).

proaching the act from this point of view, it is apparent that no relation of principal and surety is established or contemplated by any of its sections.

"This appears to be the view taken without exception by the courts of other jurisdictions which have considered the point. In the interpretation of a statute widely adopted by the states to the end of securing uniformity in a department of commercial law, we should be inclined to give great weight to harmonious decisions of courts of other states, even if we were less clear than we are in this instance as to the soundness of our conclusion."¹¹

A case in Louisiana¹² to which passing reference was made in the President's address of 1911, may be noted in connection with this decision. The Supreme Court of that state, apparently overlooking Section 63 of the Negotiable Instruments Law as adopted in Louisiana, holds that a person not originally a party to a note, who puts his name thereon, is presumed to do so as surety. This and another case,¹³ without mentioning previous authorities, follow the former jurisprudence in Louisiana.¹⁴ The point is in litigation and may come before the court for consideration again. It is an interesting fact, which was forcibly commented upon by my predecessor, that a number of decisions have been rendered since the adoption of the act by the courts of various states seemingly overlooking its existence. Such omissions will become rarer as the writers on the subjects of the acts make them better known.

THE WAREHOUSE RECEIPTS ACT.

I have been furnished with a number of cases bearing upon this act, which are given in a footnote.¹⁵

¹¹ (From Commissioner E. A. Krauthoff): *Union Trust Co. vs. McGinty*, 98 N. E. Rep. 680.

¹² (From Commissioner W. O. Hart): *Hackley vs. Magee*, 55 So. Rep. 656 (128th La. Ann. Rep.).

¹³ *Parker vs. Guillot*, 118 La. 223.

¹⁴ *Claffin vs. Feibleman*, 44 La. Ann. 518. See *Pugh vs. Sample*, 123 La. 791.

¹⁵ (From Commissioner Terry): *Ballston Refrigerating Co. vs. Eastern Refrigerating Co.*, 142 App. Div. 135; *Herrman vs. New England Navigation Co.*, 143 App. Div. 551; *Belzer vs. Daub Storage Warehouse Co.*, 130 N. Y. Supp. 153; *Rapp vs. Washington Storage Co.*, 134 N. Y. Supp. 855.

THE SALES ACT.

The New Jersey Court of Errors in a case² construing Section 67³ of the Sales Act, observes that

"The primary purpose of the codification, as expressed in its title, was to make uniform the law concerning the sale of goods. Any construction of the statute, therefore, which would throw it out of harmony with rules of law generally prevailing, relating to that subject, would be in direct violation of its expressed object. It is consequently necessary to ascertain whether there is any generally accepted rule existing in other jurisdictions prescribing the measure of damages in actions by the vendee for failure to deliver the goods, where he has made a contract for the resale thereof."

This is a significant utterance. It is really the keynote to the proper construction of all of the commercial acts, excepting in the very few instances where new definitions have changed the accepted law.

THE BILL OF LADING ACT.

Hearings were held before the Committee on Interstate Commerce of the United States Senate at intervals during the past winter on the relative merits of two proposed acts of Congress, one known as the Stevens-Clapp Bill and the other as the Pomerene Bill. The Stevens-Clapp Bill, which was urged for passage by various commercial bodies, deals with the definition of bills of lading and contains certain matters deemed most vital in the uniform act, but does not attempt to cover the whole subject. It has the prestige of having been passed by the House at a previous session. It seeks to deal only with certain specific evils. In substance, first, it aims to make carriers liable on interstate bills even if they have not received the goods. Second, to

² *Pope vs. Ferguson*, 33 Atl. Rep. 353. (From Commissioner Hardin.)

³ Where there is an available market for the goods in question, the measure of damages, in the absence of special circumstances showing proximate damages of a greater amount, is the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time be fixed, then at the time of the refusal to deliver.

make carriers liable on order bills which they leave outstanding after delivering all or part of the goods. The vital question is the proposition of the bill to make the carrier liable even if he does not receive the goods for bills of lading which have been issued by an agent of the railroad authorized to issue such bills."

In this connection the sentiment among shippers has been expressed as follows:

"The practice by agents of railroads of issuing bills of lading for cotton not in hand and as acts of accommodation to favored shippers, conjoined with the denial by said railroads of responsibility for the acts of their agents, has been largely instrumental in producing conditions from which great frauds have grown, with resultant loss to individuals and reproach to the American cotton trade. . . . The logical remedy for the abuses in the through cotton-billing system lies . . . in compelling the carriers to assume the responsibility which, under every consideration of justice, equity and fair dealing, they should bear."

A modification of the Stevens-Clapp Bill was reported by the Senate Committee. It was strenuously opposed as being inadequate and containing defects and ambiguities."

Many of the advocates of the Stevens-Clapp Bill supported it because they thought it had a better chance of passage by reason of its brevity and also because doubts were cast upon the constitutionality of certain criminal provisions of the Pomerene Bill, and those sections (28-43) relating to dealings in bills of lading

¹³ Argument of Prof. Samuel Williston, Hearings before Senate Committee, p. 17.

¹⁴ Edmund J. Glenny, President N. O. Cotton Exchange, to Senator Clapp.

¹⁵ Counsel for shippers, in their brief, after pointing out its various defects, say that "The Pomerene Senate Substitute Bill No. 6810 has now been enacted in nine States, and has worked admirably as clearly defining the terms therein used, and has been conducive to the merchants clearly understanding their rights, and therefore preventing litigation. The shippers are unalterably opposed to the bill as reported . . . and in favor of the Pomerene Substitute Senate Bill No. 6810." (Brief of Francis B. James, Esq., of counsel for shippers.)

between third parties. Competent opinion supports them, however.²¹

Although nine states have passed the Bill of Lading Act, it is obvious that for interstate commerce, which means the great bulk of the commerce of the country, a law is needed to cover the whole subject of interstate and foreign bills. Such a law is the uniform act drawn by this Conference, which was introduced by Senator Pomerene, of Ohio, and is known in Congress by his name. At the present writing neither of the bills has been passed, but it is hoped the uniform act will be accepted, inasmuch as it presents a complete code on the subject and is already the law of many of the states. It imposes all the liability on the carriers sought to be imposed by the other bill.

A pertinent decision was rendered in Kansas during 1911²² interpreting the Missouri act and declaring that negotiability of bills of lading gave them full negotiability. This is a contrary view to that expressed by the Supreme Court of the United States.²³ The opinion makes reference to the uniform act by way of illustration.

THE UNIFORM DESERTION ACT.

This act was amended in Massachusetts²⁴ making provision for the payment of a probation officer.

²¹ This national and international instrument of credit; this national instrument of national and international trade and commerce, . . . is more than a mere document of title. It is more than a mere symbolical representative of the goods. It is itself an instrument, with rights attaching to the instrument itself and embodied in its terms. Once Congress assumes to regulate that instrument of commerce, to fully protect it and the rights of persons dealing with such federal instrument of interstate commerce, it would have a right to carry such regulation to its logical conclusion." Argument of Francis B. James (Hearings before Senate Com., Feb. 17, 1912). See, also, opinion of Henry W. Taft, Esq., on constitutionality of Clapp-Stevens Bill (Hearings, etc., pp. 20 and 22).

²² *Sealy vs. Missouri, etc., Ry Co.*, 114 Pac. Rep. 1077.

²³ *Shaw vs. Railroad Co.*, 101 U. S. 562.

²⁴ Acts of 1912, ch. 264.

THE UNIFORM DIVORCE ACT.

Beyond an occasional outcropping of the proposition to amend the Federal Constitution so as to take away the states' jurisdiction, there seems to have been no change of public sentiment on this subject. Commissioners are recommended to have the act introduced in their respective states where legislative sessions are to be held during the coming year, and where objection to other portions of the act cannot be overcome, it is believed that insistence on the jurisdictional provisions will secure support at least for them. Matters of procedure as well as causes may remain as they now are without affecting the status of citizens of other states, the evil of their faults being confined to residents; but the lack of uniformity as regards jurisdictional laws is so far reaching that no effort should be relaxed to obtain uniformity in them.

PROPOSED NEW ACTS.

COLD STORAGE.

The National League of Commission Merchants have approved the findings of the Massachusetts State Commission, appointed to investigate the cold storage conditions in that state, as "reasonable in construction, sensible in conclusion and free of drastic provisions." The bill proposed by this Commission has been recommended as a suitable basis for enactment in the various states, to the end that cold storage laws may become uniform. The bill provides for the supervision of all public cold storage warehouse and refrigerating plants by the state board of health, and compels the operators of such warehouses to maintain complete records as to the dates of receipts and withdrawal of produce lodged therein.²²

I recommend that the Committee on Purity of Articles of Commerce be instructed to take this matter into consideration, bearing in mind congressional legislation on the subject, and to report whether it is desirable for this Conference to consider the subject of a Uniform Cold Storage Law, with authority to submit the draft of an act.

²² From Commissioner W. O. Hart.

VITAL STATISTICS.

My attention has been called again to the resolution of Congress, approved February 11, 1903,²² expressing approval of the movement of the American Public Health Association and the United States Census Office in an effort to extend the benefits of registration and to promote its efficiency by indicating the essential requirements of legislative enactments designed to secure the proper registration of all deaths and births and the collection of accurate vital statistics in non-registration states with the suggestion that such legislation be adopted. A model act, patterned in the main after the Pennsylvania law, has been drafted and is in actual operation in that state and in Ohio, Missouri and Kentucky.

It would seem well for the Committee on Vital Statistics to examine this law, and, if approved by the Commission, it may be added to those recommended by this Conference.

BOILER INSPECTION.

At a meeting held in New Orleans during the month of March, the American Boiler Makers' Association appointed a special committee on the subject of a Uniform Boiler Inspection Law. It was stated that at present there are but five states having laws governing boiler specifications and inspections, Massachusetts leading.

I recommend that the Executive Committee consider whether or not it would be within the purview of the Conference and expedient to examine the subject, with a view to the preparation of a uniform law by the proper committee.

COMPUTATION OF TIME.

Suggestion has also been made to have drafted a uniform law as to computation of time. There is no uniform rule at present among the various states. It has been suggested that

"In computing the time for giving notice or doing any act, the day of serving the notice, if served personally, or the day that

²² The American Medical Association Bulletin, Chicago, May 15, 1912.

it is first published, if published in a newspaper, shall be counted. For example, a three days' notice served on May 1 will be good for any purpose at any time on May 4 after the usual morning business hour. However, when the last day of such time falls on Sunday or a legal holiday, such Sunday or legal holiday shall not be considered; but the following day shall be considered instead of such Sunday or legal holiday."

This also is a subject that I recommend for the consideration of the Executive Committee.

EXPERT DRAFTSMEN.

Where acts of major importance and of considerable length have been prepared by the Conference, in a majority of cases the work has been entrusted by the committee in the first instance to an expert draftsman. I recommend to all committees hereafter the advisability of following this precedent. It has an undoubted tendency to hasten the completion of the work and presents other advantages that are of equal or greater moment. Of course, the expense must be provided for by the Conference.

SOCIAL AND POLITICAL CONDITIONS.

In one of a series of articles by Roscoe Pound,²⁸ he deals with the various schools of thought on the nature of law and of the point of view from which the science of law should be approached. He divides these groups into the Philosophical, the Historical and the Analytical. He says that in the United States

"The basis of all deduction is the classical common law, the English decisions and authorities of the seventeenth, eighteenth and first half of the nineteenth centuries. . . . Thus the leading conceptions of our traditional case law come to be regarded as fundamental conceptions of legal science, and not merely the jurist, but the legislator, the sociologist, the criminologist, the labor leader, and even, as in the case of our corporation law, the

²⁸ See 38 Cyc., 317; *Ward vs. Walters*, 63 Wis. 39, 43; *Pittellkow vs. Milwaukee*, 94 Wis. 651; *Minard vs. Burtis*, 83 Wis. 267; *In re Babcock's Will*, 133 N. Y. Supp. 655.

²⁹ The Scope and Purpose of Sociological Jurisprudence, 24 and 25 *Harvard Law Review*, Nos. 8, 2 and 6.

business man, must reckon with them. In consequence, when the Commissioners on Uniform State Laws, in drafting a Uniform Commercial Law, propose changes of existing rules incidentally, we are told they are 'codifying in the air and will probably do more harm than good to commerce and mercantile law.'"

He shows that

"The tendency of practicing lawyers to regard the doctrines of the system in which they have been trained as parts of the legal order of nature 'is reinforced by our legal training and education.'"

He quotes:

"The critical examination of the past is necessary in order to discover the grounds upon which we rest, but the consideration of the future is none the less necessary in order to determine whither we are going. All law is truly of the present; the past is no more, except in so far as its forces operate in the present; and the future is not yet, except in so far as it is already a condition in the present; the present is, therefore, a union of the past and the future. It alone is real. There is something that is often not sufficiently recognized by the Historical School."*

The principles upon which this Conference has proceeded, I think it fair to say, have been based upon the doctrine so well stated by the observant critic, the quotation from whose works I have borrowed from Professor Pound. We have endeavored to put into statutory form the well-settled conclusions of the best and weightiest authorities on those subjects that have been selected for reduction to statutory form. But under pressure of the sentiment of the business community we have made some advances in conservative and careful fashion on the rules of existing law in recognition of that common sense of justice which we may hope becomes clearer as the years go on.

Modern social and political conditions have in recent years caused a general re-examination of the basic concepts of all of our institutions. It could not be expected that municipal law would be overlooked in the general criticism to which all institutions have been compelled to submit. In the midst of an unparalleled industrial prosperity, more widely diffused than has

* Bluntschli's Critique of Savigny.

ever been known, so far as recorded history can tell us, our American communities have been almost suddenly brought face to face with a spirit of unrest that insists upon demonstration that our frame of government and our system of common and statutory law and legal procedure are the best for our day and generation. Lawyers and professors of the inexact science of the law must justify existing systems or the insistent sense of justice, too often blinded by passion and diverted into selfish channels by demagogues, conscious and unconscious, will shatter them without reverence for tradition or fear of future consequence. Naturally, the philosophical lawyer, who is wont frequently to withdraw himself from the incessant demands of immediate duty to his client to reflect upon the aim and purport of human laws, must take a cautious and conservative view of any proposal of change or reform; but it does not bespeak unselfishness, if he resists such change because it may lay upon him the burden of learning a new system when an old one has become a second nature to him; and it does not bespeak intelligence if he thinks that any system that has shown itself inadequate to meet the ends of enlightened justice can be preserved in the face of a thoroughly convinced public opinion against it.

The end of all human law is to approach as nearly as may be possible by reason, aided by revelation, to those immutable principles of justice which are of the essence of the Creator's will. To use the well-worn words of Blackstone:

"These are the immutable laws of good and evil, to which the Creator Himself, in all His dispensations conforms; and which He has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Such, among others, are these principles: That we should live honestly [honorably], should hurt nobody, and should render to every one his due; to which three general principles Justinian has reduced the whole doctrine of law."¹

Never, perhaps, in the history of mankind has there been such an opportunity to construct a perfect political constitution, so far as human endeavor could avail, as was afforded the gifted and

¹ 1 Bla. Com., 39.

patriotic men who formed the convention that met in Philadelphia in 1787; and never, we may believe, was such statesmanship crowned with more brilliant success. Imperfect as the Federal Constitution necessarily was, when compared with an ideal, excepting as it left open the question of slavery, it provided a system under which the American people have flourished beyond all precedent. Interpreted in a broad and tolerant spirit by the great court for which it made provision, it has proved itself so elastic as to require but few amendments, and stands today as probably the oldest written instrument of government in effective operation. All about us we have seen the fall of ancient systems, until the spirit of unrest has invaded the remote Orient, and even there the experiment of democracy is under trial, but as yet our constitution has survived.

It is a commonplace that conditions of life have been revolutionized since the adoption of the Federal Constitution. The slight bonds that held the states together while the slavery question remained unsettled have been indissolubly welded by the Civil War, by steam and electricity. No one, however fanciful may be his political dreams, now suggests that any part of the republic could flourish dissevered from the union; but the restless discontent with existing conditions does not hesitate to attack the constitutional system of representative government, offering in its stead some vague suggestions of a pure democracy or a socialized state. The old-time devotion to our dual government, nation and state, has given place in many quarters to a spirit of skepticism that may be the forerunner of disaster. Men forget that government is a reflexed image of their own ideals, and no governmental device can of itself make the morality of a people higher than that of the individuals who compose it. For reasons far removed from our political constitutions, which may be traced to the loss of religious faith, to the enervation of luxury and to the whole train of temptations that follow in the wake of material prosperity, the average morality of our people may have fallen below the standard of other days, but not yet so low, we may thank God, that the popular conscience is not quickened by the revelation of dishonesty, whether in personal or corporate

affairs. Indeed, it is from an aroused indignation that is blindly striking at this dishonesty, wherever it may have been found or suspected, that our institutions are in danger.

The extraordinary attempts to undermine the popular confidence in the judiciary of the state and nation we may well hope and believe, will fail before the sober reflection of the great masses of the people, but that self-seeking men should have found it possible to obtain consideration for their revolutionary vagaries is proof enough that even the belief in courts as the best machinery for the administration of justice between men is not so wide spread but that it needs to be strengthened.

"As a matter of fact," says the editor of a leading law journal,^a "we are living in a transitional period of our country's history, when the people, repudiating the idea of government by representation, are demanding the right to directly interfere in all the processes of government."

And he continues:

"To our mind, it would be wiser on the part of our various Bar Associations to recognize this tendency as being deep rooted and permanent, and seek to direct it in right channels than to ignore it as the work of demagogues, from the effects of which the people will soon recover."

While not accepting the pessimistic conclusion, but devoutly hoping that the movement away from representative government and towards a pure democracy is not "deep rooted and permanent," but is partly because of a justifiable indignation against wrong doing that has not arisen entirely from defects in our system, but from the neglect and ultra-partisanship of the people themselves, and, recognizing the obvious fact that it has been fanned by the unscrupulous for their own selfish purposes, it behooves lawyers to justify the existing system as essentially the best, to meet with candor the objections brought against it, and to give their hearty aid in bringing about amendment when changed social conditions make amendment imperative. The patriotic wisdom of the people's representatives have enabled us to survive the trials of the past, and we may well believe that

^a 75 Central Law Journal, p. 25.

they will correct existing evils without surrendering any one of the principles upon which our democratic republic is founded.

These observations upon political and social conditions may not be out of place to a body composed of Commissioners from all of the states and possessions of the union met to perfect uniform legislation, which will have no greater sanction than as it appeals to the sense of justice and expediency of those separate political entities.

Not the least, nay, probably the greatest, of the acknowledged abuses of power have had their root in the differing laws, especially the corporation laws, of the states, and the obvious remedy in the minds of superficial thinkers is to accelerate the centralizing tendency and to minimize still further the dwindling importance of the states themselves. The business world is wearied with the harassing taxation of different jurisdictions upon the same subjects; the conflict of jurisdiction has become accentuated in many directions; and unless the people can be convinced that the breaking down of our theory of state and federal legislation will in the end prove disastrous to well ordered liberty, the end of state jurisdiction on many matters of social and business importance will not be long delayed.

In surrendering the dignity of President of the Conference of Commissioners on Uniform State Laws and taking place for a further time among the ranks, I feel no discouragement either because of the work done or the prospects for the future. To my mind, it is remarkable that so much has been accomplished with so little means to work with. The spirit of devotion to the best interests of the community, of sacrifice of personal ease and well-earned leisure during the vacation months of the year by busy lawyers and judges, ought to be, and no doubt is, to the members of our profession and to at least some observant members of the legislatures, a spectacle of high patriotism. For myself, I shall always retain it among the privileges of my life that your confidence has found expression in thinking me in sort worthy to preside at your conferences. A long, nay, unending, vista of beneficent work stretches before us and our successors.

In the language of an admired American poet and philosopher," as we look about on existing tendencies and deplore their possible consequences,

"Let us be of good cheer, . . . remembering that the misfortunes hardest to bear are those which never come. The world has outlived much, and will outlive a great deal more, and men have continued to be happy in it. It has shown the strength of its constitution in nothing more than in surviving the quack medicines it has tried. In the scales of the destinies, brawn will never weigh so much as brain. Our healing is not in the storm or in the whirlwind, it is not in monarchies, or aristocracies, or democracies, but will be revealed by the still, small voice that speaks to the conscience and the heart, prompting us to a wider and wiser humanity."

"James Russell Lowell, "Democracy."

AUGUST 21, 1911, to AUGUST 21, 1912.

1911.

1912.

\$3,560.15

1911.

(1114)

| | | |
|-----------|--|----------|
| Sept. 11. | Samuel Williston, on account of balance due for drafting bills of lading and stock transfer acts..... | \$250.00 |
| 21. | W. O. Hart, cost of printing and distributing report of Committee on Wills, Descent and Distribution..... | 8.00 |
| 22. | W. D. Crocker, Special Secretary of Committee on Marriage and Divorce, expense of attending Conference at Boston | 71.78 |
| Oct. 9. | Lord Baltimore Press, printing notices of time and place of Boston meeting.. | 1.62 |
| 16. | George C. Burpee, reporting and furnishing three copies of proceedings of first day's meeting of Conference in Boston. | 65.45 |
| | Charles A. Morrison, balance due for reporting four days proceedings of Conference, including services of extra stenographers to take reports, etc.... | 100.00 |
| 19. | Albert H. Barclay, Atty. for National Surety Company, premium on Treasurer's bond | 10.00 |
| 21. | Samuel Williston, balance due on account of drafting acts | 250.00 |
| Nov. 11. | Tuttle, Morehouse & Taylor Co., printing letter heads for Conference and for Committee on Commercial Law..... | 15.79 |
| | Talcott H. Russell, expenses of attending meeting of Committee on Commercial Law in New York, also postage and miscellaneous expenses to date..... | 42.83 |
| 18. | T. Moultrie Mordecai, expense of attending meeting of Committee on Commercial Law | 32.50 |
| 21. | A. T. Stovall, expense of attending meeting of Committee on Commercial Law. | 55.30 |
| 23. | Clarence Frederick Milheiser, reporting meeting of Committee on Commercial Law | 93.00 |
| 28. | W. D. Crocker, expenses connected with reprinting bill for Committee on Marriage and Divorce..... | 147.83 |

1912.

| | | |
|----------|---|------------------|
| Jan. 3. | Lord Baltimore Press, composition on articles omitted from report of Conference | \$ 21.56 |
| | Charles Thaddeus Terry, postage paid in sending out reports..... | 30.00 |
| Feb. 12. | William Dunning, for reporting meeting of Committee on Corporations..... | 75.00 |
| Mar. 11. | Hollis R. Bailey, expense of distributing second tentative draft of Uniform Workmen's Compensation Act..... | 65.00 |
| April 4. | John C. Richberg, expense of attending meeting of Committee on Uniform Incorporation Law, in New York, December, 1911 | 114.00 |
| June 29. | Seneca N. Taylor, expense of attending meeting on Incorporation Law..... | 91.00 |
| | T. Moultrie Mordecai, expense of attending meeting of Committee on Commercial Law in New York..... | 32.50 |
| | Tuttle, Morehouse & Taylor Co., printing 300 copies of amendments to Negotiable Instruments Act | 31.35 |
| | Lord Baltimore Press, printing 1000 copies of proceedings of Conference of 1911 | 233.37 |
| July 9. | W. D. Crocker, Special Secretary of Committee on Marriage and Divorce, expense of said Committee..... | 99.21 |
| | | <hr/> \$2,332.47 |
| | Balance on hand..... | \$1,227.68 |

TALCOTT H. RUSSELL,
Treasurer.

REPORT OF AUDITING COMMITTEE.

Mr. President and members of the Conference:

The Committee appointed to audit the account of the Treasurer reports that it has examined the same and finds all disbursements supported by proper vouchers.

| | |
|--|------------|
| Balance shown by last annual report..... | \$1,103.39 |
| Receipts during the year as stated..... | 2,456.76 |
| | <hr/> |
| The sum of which is..... | \$3,560.15 |
| Disbursements shown by report..... | 2,332.47 |
| | <hr/> |
| Report shows balance on hand..... | \$1,227.68 |

which we are informed by the Treasurer is on deposit in the City Bank of New Haven, Conn.

Respectfully submitted,

W. A. BLOUNT,
M. G. CUNNIFF,
H. E. KELLY.

Auditing Committee.

REPORT OF THE SECRETARY

OF THE

COMMISSIONERS ON UNIFORM STATE LAWS, AUGUST, 1912.

Your Secretary begs to report some of his activities, in behalf of the Conference, since its last annual meeting in August, 1911, which was held in Boston, Massachusetts as follows:

First: The attention of your Secretary was occupied for a considerable length of time in the collection of data for the annual report of the proceedings of the Conference, the selection of portions of the stenographic minutes of the meetings of the Conference, held at Boston, in August, 1911, for incorporation in such printed report, the revision of the lists of Commissioners, committees, etc., the preparation of the material for the printer, and the reading of proof, etc., etc. The printed copies of the report were then distributed to the various Commissioners, and others interested in the work of the Conference, of whom there are many. Your Secretary also sent copies of the report of the proceedings of the Conference to various public libraries throughout the United States, which in every instance was much appreciated. At various times throughout the year requests have been made to your Secretary for copies of the report and other literature of the Conference, all of which requests your Secretary has been glad to comply with.

Second: Considerable correspondence has been carried on by your Secretary with the various officers of the Conference, and the Commissioners thereof, and others, who sought information in regard to the work of the Conference.

Third: Letters and copies of our report for 1911 were sent to prominent newspapers in the United States, giving such newspapers full details of the work of the Conference, and soliciting their support and aid.

Fourth: A very considerable correspondence was had with various Commissioners and others, in regard to the holdings of

meetings, committees, giving them information in regard to the status of the several uniform acts of the Conference, the states in which such acts have become law, etc.

Fifth: Notices were sent, immediately after the holding of the 1911 Conference, in Boston, to all those who were appointed upon the various committees, notifying them of such appointment. Your Secretary has also written several new Commissioners, who have been appointed in the different states, welcoming them to the deliberations of the Conference, and sending them literature of the Conference for their information and guidance.

Sixth: Your Secretary had some correspondence with Mr. Thomas Parkinson, of the Legislative Drafting Bureau, with regard to the work of that bureau, and its cooperation with the Conference, particularly in regard to workmen's compensation.

Seventh: Your Secretary attended the various meetings of the Special Committee of the Conference on Compensation for Industrial Accidents, of which he is a member, and of which Mr. Hollis R. Bailey, of Boston, is Chairman. The cooperation of the Compensation Department of the National Civic Federation at these meetings, together with suggestions from other bodies interested in the subject, have been very helpful. A full report of the activities of this committee will be submitted to the present Conference.

Eight: In connection with the work of the Committee on Uniform Incorporation Law, your Secretary, who is a member of that committee, got the opinion of various people throughout the country, who made a special study of the subject, for presentation to the committee at its various meetings, at which he was present; the result being that a final draft of the Uniform Incorporation Act will be presented to the Conference.

Ninth: As a member of the Committee on Commercial Law, of which Mr. Talcott H. Russell, of Connecticut, is Chairman, your Secretary was present at the meetings of that committee. This committee had under consideration some amendments to the Uniform Negotiable Instruments Act, and also a proposed new Uniform Partnership Act.

Tenth: Your Secretary is pleased to report that the Governor of Alaska has appointed two Commissioners from that state to represent it in the Conference, to wit: Hon. Peter D. Overfield, United States Judge, of Fairbanks, and Hon. Royal A. Gunnison, of Juneau.

Your Secretary reports, with regret, the death of Hon. John Fletcher, of Arkansas, and Hon. T. C. Marshall, of Missoula, Montana, one of the Commissioners from that state. The Governor has appointed in his stead, Hon. H. L. Wilson, of Billings.

Hon. M. G. Cuniff, of Crown King, Arizona, has been appointed as a Commissioner to represent that state at the Conference.

The expiration of the commission of Hon. H. B. Arnold, of the state of Ohio, left but one Commissioner from that state, to wit: Hon. Seth S. Wheeler, but the commission has recently been filled by the appointment by the Governor of Messrs. A. V. Cannon and Benton S. Oppenheimer

Hon. Henry Stockbridge, of Baltimore, and Hon. John Hinkley, also of Baltimore, have been appointed as Commissioners from the State of Maryland, to take the place of Hon. Rohrbach, and Hon. Lewin W. Wickes.

The Governor of Nevada has appointed Hon. H. V. Morehouse, of Goldfield, as a Commissioner from that state, instead of Hon. Hon. G. A. McElroy.

Your Secretary also reports the resignation of Hon. John R. Emery, Commissioner from the State of New Jersey. This vacancy has been filled by the appointment of Hon. Mark A. Sullivan, of Jersey City, as a Commissioner from the State of New Jersey.

Eleventh: Your Secretary is pleased to report that the Uniform Bills of Lading Act has become law in two states, to wit: the State of Iowa and the State of Louisiana. The Uniform Act Relating to Wills Executed Without the State has become law in the State of Louisiana. The Warehouse Receipts Act has been passed in the legislature of the Philippine Islands.

Twelfth: Your Secretary here states in detail the present status of the work accomplished by the Conference, in respect

of the appointment of Commissioners, the number of states which have passed each of the uniform acts approved by the Conference, and like information.

The number of states, territories and federal districts which have appointed Commissioners is as follows:

| | |
|------------------------|----|
| States | 48 |
| Territories | 2 |
| Federal District | 1 |
| Possessions | 2 |
| <hr/> | |
| Total | 53 |

NOTE.—Annexed hereto is a statement of the names of states, territories, federal districts, etc., which have appointed Commissioners.

The number of states which have passed the Negotiable Instruments Act is forty.

NOTE.—Annexed hereto is a statement of the names of states, territories, federal districts, etc., which have passed said Act.

The number of states which have passed the Warehouse Receipts Act is twenty-four.

NOTE.—Annexed hereto is a statement of such states and possessions.

The number of states and territories which have passed the Sales Act is nine.

NOTE.—Annexed hereto is a statement of such states and territory.

The number of states which have passed the Divorce Act is three.

NOTE.—Annexed hereto is a statement of such states.

The number of states which have passed the Stock Transfer Act is five.

NOTE.—Annexed hereto is a statement of such states.

The number of states which have passed the Bills of Lading Act is nine.

NOTE.—Annexed hereto is a statement of such states.

The number of states which have passed the Act Relating to Wills Executed Without the State is seven.

NOTE.—Annexed hereto is a statement of such states.

The number of states which have passed the Act Relating to Family Desertion is four.

NOTE.—Annexed hereto is a statement of such states.

You will find annexed hereto a list of states in which Commissioners have been appointed, under legislative authority, a list of states in which Commissioners have been appointed without such legislative authority, and a list of those whose legislatures have provided for the appointment of Commissioners, but which have made no provision for the payment of their expenses, all of which lists your Secretary has tried to make as accurate as possible, according to the information which he has in hand.

CHARLES THADDEUS TERRY,
Secretary.

States, territories and federal districts which have appointed Commissioners:

States.

| | | |
|--------------|-----------------|-----------------|
| Alabama, | Maine, | Ohio, |
| Arizona, | Maryland, | Oklahoma, |
| Arkansas, | Massachusetts, | Oregon, |
| California, | Michigan, | Pennsylvania, |
| Colorado, | Minnesota, | Rhode Island, |
| Connecticut, | Mississippi, | South Carolina, |
| Delaware, | Missouri, | South Dakota, |
| Florida, | Montana, | Tennessee, |
| Georgia, | Nebraska, | Texas, |
| Idaho, | Nevada, | Utah, |
| Illinois, | New Hampshire, | Vermont, |
| Indiana, | New Jersey, | Virginia, |
| Iowa, | New Mexico, | Washington, |
| Kansas, | New York, | West Virginia, |
| Kentucky, | North Carolina, | Wisconsin, |
| Louisiana, | North Dakota, | Wyoming. |

Territories.

Hawaii,

Alaska.

Federal District.

District of Columbia.

Possessions.

Philippine Islands,

Porto Rico.

States and territory which have passed the Negotiable Instruments Law :

States.

Alabama,
Arizona,
Colorado,
Connecticut,
Florida,
Idaho,
Illinois,
Iowa,
Kansas,
Kentucky,
Louisiana,
Maryland,
Massachusetts,

Delaware,
Michigan,
Missouri,
Montana,
Nebraska,
New Hampshire,
Nevada,
New Jersey,
New Mexico,
New York,
North Carolina,
North Dakota,
Ohio,

Oklahoma,
Oregon,
Pennsylvania,
Rhode Island,
Tennessee,
Utah,
Virginia,
Washington,
West Virginia,
Wisconsin,
Wyoming.

Territory.

Hawaii.

Possession.

Philippine Islands.

Federal District.

District of Columbia.

States which have passed the Warehouse Receipts Act:

| | | |
|--------------|----------------|---------------|
| California, | Massachusetts, | Pennsylvania, |
| Colorado, | Michigan, | Rhode Island, |
| Connecticut, | Missouri, | Tennessee, |
| Illinois, | Nebraska, | Utah, |
| Iowa, | New Jersey, | Virginia, |
| Kansas, | New Mexico, | Wisconsin. |
| Louisiana, | New York, | |
| Maryland, | Ohio, | |

Federal District.

District of Columbia.

Possession.

Philippine Islands.

States which have passed the Sales Act:

States.

| | | |
|--------------|----------------|---------------|
| Arizona, | Massachusetts, | Ohio, |
| Connecticut, | New Jersey, | Rhode Island, |
| Maryland, | New York, | Wisconsin. |

States which have passed the Divorce Act:

| | | |
|-----------|-------------|------------|
| Delaware, | New Jersey, | Wisconsin. |
|-----------|-------------|------------|

States which have passed the Stock Transfer Act:

| | | |
|------------|---------------|----------------|
| Louisiana, | Maryland, | Massachusetts. |
| Ohio, | Pennsylvania, | |

States which have passed the Bills of Lading Act:

| | | |
|--------------|------------|----------------|
| Connecticut, | Louisiana, | Ohio, |
| Illinois, | New York, | Massachusetts, |
| Iowa, | Maryland, | Pennsylvania. |

States which have passed the Act Relating to Wills Executed Without the State:

| | | |
|-------------|----------------|---------------|
| Kansas, | Wisconsin, | Michigan, |
| Washington, | Massachusetts, | Rhode Island. |
| Louisiana, | | |

States which have passed the Family Desertion Act:

| | | |
|------------|----------------|---------------|
| Kansas, | Massachusetts, | North Dakota. |
| Wisconsin, | | |

List of states, etc., where Commissioners have been appointed under legislative authority:

| | | |
|--------------|---------------------|-----------------|
| Arizona, | Massachusetts, | Pennsylvania, |
| Colorado, | Michigan, | Porto Rico, |
| Connecticut, | Minnesota, | Rhode Island, |
| Florida, | Mississippi, | South Carolina, |
| Georgia, | New Hampshire, | Utah, |
| Illinois, | New Jersey, | Virginia, |
| Hawaii, | New York, | Washington, |
| Louisiana, | Ohio, | Wisconsin, |
| Maine, | Oklahoma, | Tennessee. |
| Maryland, | Philippine Islands, | |

List of states where Commissioners have been appointed without legislative authority:

| | | |
|-----------------------|-----------------|----------------|
| Alabama, | Iowa, | North Dakota, |
| Arkansas, | Kentucky, | Oregon, |
| California, | Missouri, | South Dakota, |
| District of Columbia, | Montana, | Texas, |
| Delaware, | Nebraska, | Vermont, |
| Idaho, | New Mexico, | West Virginia, |
| Indiana, | North Carolina, | Wyoming, |
| Kansas, | Alaska, | Nevada. |

List of states, etc., whose legislatures have provided for the appointment of Commissioners, but where no provisions have been made for the payment of their expenses:

| | | |
|-----------|----------------|---------------------|
| Arizona, | Illinois, | Philippine Islands, |
| Colorado, | Hawaii, | South Carolina, |
| Florida, | Mississippi, | Tennessee. |
| Georgia, | New Hampshire, | |

REPORT
OF THE
EXECUTIVE COMMITTEE.

To the President and Commissioners Attending the Twenty-second Conference of Commissioners on Uniform State Laws:

Your Executive Committee would respectfully report:

At the Twenty-first Annual Conference held at Boston, Mass., August 23 to 28, inclusive, thirty-one states and the District of Columbia were represented by Commissioners. Others than Commissioners in attendance at the Conference were: James B. Lichtenberger, Philadelphia, Pa.; Edmund F. Trabue, Louisville, Ky.; Thomas I. Parkinson, New York; William Draper Lewis, Philadelphia, Pa.; Alex. Simpson, Jr., Philadelphia, Pa.; William U. Hensel, Lancaster, Pa.; William R. Fisher, Philadelphia, Pa.; Charles M. Clement, Pennsylvania; Francis B. James, Cincinnati, Ohio; William D. Crocker, Williamsport, Pa.; Middleton Beaman, New York; Charles A. Boston, New York; Gilbert Ray Hawes, New York; Owen K. Lovejoy, Washington, D. C.

The proceedings of the Conference having been printed and distributed among the Commissioners, it may be assumed they are all reasonably familiar with the matters attended to at the last Conference and those which should receive attention at this Twenty-second Annual Conference.

The Chairman of the Executive Committee has received in reply to the usual request addressed to the Chairman of committees, notice that reports requiring future discussion at the Twenty-second Annual Conference will be from the following committees: Commercial Law, Marriage and Divorce, Uniform Incorporation, Torrens System and Registration of Land Titles,

Vital and Penal Statistics, Compensation for Industrial Accidents, Situs of Real and Personal Estate for Taxation.

The committees which will not have formal reports for presentation are: Wills, Descent and Distribution; Deposition and Proof of Statutes of Other States; Congressional Action; Banks and Banking; Committee to Cooperate with the American Institute of Criminal Law and Criminology.

The committees with brief reports, not requiring extended consideration, are: Appointment of New Commissioners, Purity of Articles of Commerce, Publicity.

The committee has had requests for fixing the time for the consideration of certain reports. After a conference with the President and the Secretary of the Association, the following time table has been prepared and is suggested for the approval of the Conference, viz:

WEDNESDAY, AUGUST 21.

| | |
|---------------------------|-----------------|
| A. M. | P. M. |
| Organization. | Commercial Law. |
| Address by the President. | |
| Election of Officers. | |
| Presentation of Reports. | |

THURSDAY, AUGUST 22.

| | |
|--------------------------------|-----------------------|
| A. M. | P. M. |
| Commercial Law. | Marriage and Divorce. |
| Night Session: Torrens System. | |

FRIDAY, AUGUST 23.

| |
|--|
| A. M.—P. M. |
| Compensation for Industrial Accidents. |
| Night Session: Uniform Incorporation. |

SATURDAY, AUGUST 24.

A. M.

Compensation for Industrial
Accidents.

P. M.

Situation of Real and Personal Es-
tate for Taxation.

MONDAY, AUGUST 26.

A. M.

Uniform Incorporation.

P. M.

Short reports, unfinished and
new business and adjourn-
ment, to meet at the call of
the Chair.

In view of the time requested by the members of a number of the committees whose reports will require most careful consideration and discussion, the committee was compelled to recommend a session on Thursday and Friday nights.

The Committee on Conveyances has presented no new report, but its Chairman, ex-President Amasa M. Eaton, desires to call up the report of last year for such action as the Conference may see fit to take upon it.

The usual circular letter to the Governor of each state, district, territory and possession was sent out by the Chairman, calling attention to the time and place of the Annual Conference of Commissioners and requesting the executive to use his influence in securing the attendance of one or more Commissioners at the Conference. Replies were received from the Governors of Arkansas, West Virginia, Illinois, Maryland, Mississippi, Massachusetts, Minnesota, North Dakota, Washington, California, Utah, Arizona, Michigan and Pennsylvania, assuring interest and cooperation upon the part of the respective executives.

The Governor of West Virginia enclosed a part of his message in which he had advised the legislature of the appointment of the Commissioners, of the compilation and completion of the Sales, Warehouse Receipts, Transfers of Stocks, Bills of Lading and Uniform Negotiable Instruments Acts, which have been

printed by the Conference under the title of "American Uniform Commercial Acts"; that the Conference had also prepared an act to be known as the Act Relating to Wills Executed Without the State, Uniform Desertion Act and the Uniform Divorce Act. The Uniform Negotiable Instruments Act, he advised the legislature, had already been adopted and that the other acts might be presented to the legislature for its consideration, saying: "It seems unnecessary for me to try to emphasize the importance of uniform state legislation. I realize that many members of the legislature are thoroughly familiar with this subject and confidently believe you will give to the uniform bills that may be presented to you, thoughtful consideration."

"The Commissioners representing this state have acted without pay and without remuneration of expenses actually incurred, and it seems to me that an appropriation sufficient to pay their expenses should be made."

A similar communication like this of Governor Glascock's by the Governor of each state, which does not provide for the payment of the expenses of its Commissioners and of a modest contribution towards the expenses of the Conference, would be appreciated by the Conference.

Chairman Walter E. Coe, of the Committee on Purity of Articles of Commerce, being unfortunately "laid up with a broken leg, which will confine him to his home for some few months at least," in a letter of the 19th ultimo advised the Chairman of the committee that he had requested his colleague, Commissioner Carlos C. Alden, to prepare a report for that committee.

Chairman W. O. Hart, of the Committee on Wills, Descent and Distribution, states that no report has been prepared "for the reason that he had never received a report from the sub-committee which was to arrange with the Legislative Drafting Bureau for annotations to the law regarding the Probate of Foreign Wills as ordered by the last Conference." Chairman Hart further stated that the State of Louisiana will not be able to make any contribution this year to the Conference owing to the

many losses the people of that state have suffered from the floods in the Mississippi River, which would not only prevent an appropriation but the payment of the expenses of the Commissioners.

Chairman John H. Wigmore, of the Committee on Criminal Law and Criminology, reports: "That nothing has occurred to call for special action or deliberation during the last year. The only fact worth recording at this time is that the Legislative Reference Bureau of New York City is in cooperation with the sub-committee of the Committee on Criminal Procedure of the Institute for the purpose of preparing a draft of a uniform law or some proposed part of the law of Criminal Procedure. As soon as any definite progress is made the committee can report further."

Chairman Frederick Bromberg, of the Committee on Depositions and Proof of Statutes of other States, states from the nature of the subject matter referred to his committee, nothing has been done subsequent to the last meeting, inasmuch as there was no material to act upon.

Chairman Edward W. Frost, of the Committee on Marriage and Divorce, furnished the Chairman with the draft of a preliminary statement to accompany the current report, which has been sent to each Commissioner.

Chairman Aldis B. Browne, of the Committee on Congressional Action, regrets that the committee has "not been able to accomplish anything in Congress during the present session, owing to conditions beyond their control. At the short session we may be able to secure action on the Stocks Transfer Act and Wills Act and possibly the Sales Act."

Chairman John C. Richberg, of the Committee of Uniform Incorporation Act refers to the important meeting of this committee on December 27, 1911, in the City of New York when there were also in attendance more than a dozen gentlemen who had been notified to be present at the meeting of the committee and assist in its deliberation. This committee was in session three full days and completed the third tentative draft which

had been published and was in the course of distribution. The committee, as well as every member of this Conference, regrets the retirement of Vice-Chancellor, John R. Emery, as a Commissioner from the State of New Jersey, as a member of this committee.

Chairman Francis M. Burdick, has submitted to the Chairman a printed copy of the report of the Committee on the Torrens System, together with a minority report by Commissioner Wigmore, of that committee, which reports are in print.

Chairman John R. Hardin, of the Committee on Banks and Banking, states: "No matter requiring any action has been before the Committee on Banks and Banking . . . during the current year."

Chairman Talcott H. Russell, of the Committee on Commercial Law, reports his committee had two meetings in New York, each of them occupying two days, one of them in November, at which the proposed Partnership Act was considered; the other, in May, at which the principal matter under consideration was certain proposed amendments to the Negotiable Instruments Act, and that the committee would probably have another meeting at Milwaukee before the Conference, at which there will be submitted some recommendations concerning both of these matters.

Chairman Ernst Freund, of the Committee on Situs of Real and Personal Property for Purposes of Taxation, presented a report in writing of his committee, saying it had been impossible to get a meeting, but all the members had been communicated with by correspondence and they all had agreed to and signed the written report which he submitted. No formal bill was submitted since it was not expected that the Conference would at this year's session recommend any measure for adoption. The committee, however, desired to have the report discussed at the Conference and authority given by it to the committee to cooperate with the National Tax Association which is working along similar lines.

A request was made that the report of this committee should

be printed at the expense of the Conference. The Chairman, after conference with the members of the committee, could not authorize the printing of the report, which covered some fourteen pages of typewritten matter.

Chairman Hollis R. Bailey, of the Special Committee to Draft a Uniform Workmen's Compensation Act, reported that a final report of the committee would be ready to submit at Milwaukee. There would be two drafts of uniform law, one framed as a compulsory act, the other framed as an elective act.

Chairman Frank Bergen, of the Committee on Insurance, reported that the committee is engaged in collecting statistics to be used in the preparation of a draft of uniform insurance laws, but has not proceeded far enough to be in a position to make further report.

The Commissioners from Georgia, Vermont, Oklahoma, Rhode Island, Louisiana and Massachusetts have submitted to the Chairman copies of their report, as Commissioners, to the Governor of their respective states. Special mention should be made by the Executive Committee of the very forceful and carefully prepared report of the Commissioners from Vermont, who have presented to Governor Meade of that state a comprehensive report of the history and operations of the Conference of Commissioners.

The Chairman of the Executive Committee has also received notices of the appointment of new Commissioners, and of the deaths of Commissioners, which matter will be referred to in the report of the Secretary.

On March 15, 1912, the Executive Committee issued a circular letter to each Commissioner announcing the time and place of the meeting of the Commissioners of this Twenty-second Annual Conference, calling special attention to the matter of securing legislation toward the payment of the expenses of the Commissioners of the respective states, as well as a contribution towards the payment of the expenses of the Conference. To this circular letter replies were received from the Commissioners of

Alabama, California, Florida, Idaho, Illinois, Missouri, Nebraska, New Hampshire, Ohio, South Dakota and Texas, stating their legislatures would not meet this year or that they would not meet until after the assembling of this Conference.

Commissioner Browne, of the District of Columbia, states the Commissioners had heretofore submitted the matter "only to be turned down at the Capitol . . . and the attempt to secure an appropriation would be hopeless," saying: "Uniform State Laws do not seem to appeal to the national legislature as embracing the United States within its sphere. The only place now where the United States would be interested in such uniformity is in the District of Columbia. A few of the uniform acts have been adopted here, but only after the greatest efforts. The Sales Act and the Uniform Stock Transfer Act have yet to be adopted." The Commissioners of the District pay their own expenses.

Commissioner Meldrim, of Georgia, stated the legislature met in June and that if it was possible he may be able to accomplish something at that time.

Commissioner W. O. Hart, of Louisiana, referred to the contribution of three hundred dollars to the Conference in 1911 and of one hundred dollars in 1910, but was unable to state whether, for reasons already mentioned in this report, they would be able to make an appropriation this year.

Commissioner George Whitelock, of Maryland, stated there was a bill now pending in their legislature, which he hoped would receive favorable action, for the continuance of the Commission, with a proper clause concerning the appropriations.

Commissioner Dan H. Hall, of Michigan, reported that the legislature was then in extra session, to be followed by another extra session, but nothing could be considered except such matters as are laid before the session by the Governor, and he doubted, in view of certain criticisms in connection with such extra sessions, if it would be possible to have the attention of the legislature called to these matters during the extra sessions.

The State of Minnesota has made generous provision for

both the expenses of its Commissioners and a contribution towards the expenses of the Conference.

Commissioner McElroy, of Nevada, reported that by reason of his removal to California he has been unable to accept the appointment of Commissioner.

Commissioner John R. Hardin, of New Jersey, acknowledged the receipt of the circular letter.

Commissioner J. M. Hervey, as President of the New Mexico Bar Association, replied they had just held a special meeting of the Association at which the matter of preparing for passage a bill for the Uniform Child Labor Law and Uniform Sales Act was left to a committee. He has submitted to the Association the matter of preparing a bill for the appointment of three Commissioners from his state and an appropriation of five hundred dollars per year to pay the expenses of the Commissioners and a pro rata part of the expenses of the Conference. He thought that such a bill would pass both branches of the legislature.

The Commissioners from New York, as is well known to the Conference, have always done their utmost to have a contribution made to the treasury of the Conference.

Commissioner T. Moultrie Mordecai, of South Carolina, replied that every effort would be made along the lines indicated in the letter of the Executive Committee and they had strong hopes of being able to do something in the way of securing an appropriation at the approaching session of the General Assembly.

Commissioner Charles D. Watson, of Vermont, assured the Executive Committee he would do what he could along the lines suggested in the circular letter; and Commissioner George B. Young, from the same state, reported they were planning to bring the matter before the legislature at the next session, with the hope that something may be accomplished toward a permanent representation on the Commission from Vermont and a suitable appropriation towards the expenses.

Commissioners Massie and Caton, of Virginia, "personally had presented to the General Assembly various matters of uni-

form legislation which had been approved by the Conference and both urged in person the adoption of the measures. They also prepared a bill, which had the endorsement of the Governor, for an appropriation of five hundred dollars for the expenses of the Commissioners, and did their best to secure its passage, three hundred dollars of which was to go to the expenses of the Commissioners and two hundred dollars to the Conference."

To the customary circular letter addressed to each Commissioner, dated June 25, 1912, calling attention to the provisions of Sections 1, 2, 3 and 4 of Article IV of the Constitution of the Commissioners on Uniform State Laws, your Chairman received replies, "that no legislation had been enacted and no judicial decisions made in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, whose legislature was then in session; Hawaii, Indiana, in which fourteen bills have been introduced and none passed; Kansas, Michigan, Minnesota, Nevada, New Hampshire, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin; and reports that no legislation had been enacted but decisions had been made in Florida, Massachusetts, Missouri, Nebraska, New Jersey, New York, Utah, Virginia, Washington; and that legislation had been enacted in the following states: In Indiana, fourteen bills were introduced, including the Workmen's Compensation Act (House Bill No. 251) but not passed, reported by Commissioner Sellers, and by Commissioner Moores "that the Indiana Revised Statutes, Sections 8363-8370, of April 15, 1905, include substantially the principles of the proposed Act of Marriage, etc."; Louisiana, in which the Uniform Bills of Lading Act and the Uniform Wills Act were enacted; Maryland, in which there was an act authorizing a contribution to the Conference not exceeding two hundred and fifty dollars a year; Massachusetts, in which an act relative to the Notice of Marriage (the five days limit) is more exactly defined, and for dispensing with such notice where one of the parties was at the point of death; Mississippi, in which the Uniform

Child Labor Act had been adopted, and there was favorable report on a Uniform Act creating a Board of Commissioners and appropriating two hundred and fifty dollars annually to defray their expenses and an annual appropriation of two hundred and fifty dollars for defraying the expenses of the Conference. In this state there were also favorable committee reports on the Desertion and Non-support Acts; South Dakota, in which there is an act providing an appropriation of one thousand a year for expenses (Commissioner Manuel Rodriguez-Serra states he will report hereafter as to the decision of the Auditor of the territory as to the legality of expending a part of the appropriation towards the payment of the expenses of the Conference); Rhode Island, in which the Uniform Transfer of Stocks Act was passed.

In the following states there has been no session of the legislature since the adjournment of the Twenty-first Conference: California, Colorado, Connecticut, Delaware, Florida, Illinois, Indiana, Kansas, Michigan (as to general legislation), Minnesota, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Dakota, Texas, Vermont, Washington and Wisconsin.

On July 15, 1912, the Chairman of the Executive Committee approved of the employment of Mr. Charles A. Morrison as official stenographer in connection with the Twenty-second Conference on the same conditions as to compensation as at the Twenty-first Conference.

The Chairman of the committee also received from the State of Wisconsin a voucher to be attested by him before a notary public "in order to secure the transfer of the sum of one hundred dollars from the Wisconsin fund to the National Fund of the Uniform State Laws." While the Chairman had considerable doubt as to the propriety of his executing such a voucher in the form presented, he did, after consultation with the President of the Conference, execute the required voucher, considering the end in obtaining the hundred dollars warranted the means employed.

During the past year there have been no formal meetings of the Executive Committee, save the meeting at Milwaukee on the evening of Tuesday, August 20. Instead of formal meetings of the committee, which necessarily would increase the item of expenses of the Conference, the Chairman has taken letter votes of the committee by stating in circular letter form the subject matter to each member of the committee and receiving replies thereto. The determination to hold the sessions of the present Conference on five days was made in this manner.

A number of matters heretofore included in the report of the Executive Committee will be covered by the report of the present Secretary. The Chairman of the committee having made an earnest effort to avoid repetition, should there be such repetition in the present report, care will be taken to correct the same before the printing of the official proceedings.

At the present Conference the Committee on Insurance Laws should make a report on the question of drafting a uniform act on the subject of Insurance Companies, and the rules under which they should be conducted.

The Committee on Purity of Articles of Commerce should make a report on the question of laws affecting pure medicine for such action as the committee may recommend.

The draft of the act of the Committee on Conveyances was ordered to be printed and can be called up for the action of the Conference.

The Committee on Workmen's Compensation Act was continued with instructions to prepare a bill on that subject. It has already been stated in this report that the committee will report two acts, one compulsory, the other elective.

The Committee on Commercial Law (page 68, Proceedings of Twenty-first Conference) submitted the following resolution, which was carried:

"Resolved, That the Committee on Commercial Law be authorized to take up the subject of Business Associations, other than Common Law Partners and Corporations, with a view to preparing a statute on the subject after the Conference has dis-

posed of the Partnership Act; and that the committee be empowered to authorize Dean Lewis on behalf of the Drafting Association to undertake preliminary investigations in reference thereto, without expense to the Conference."

The committee to investigate the advisability of cooperation with the American Institute of Criminal Law and Criminology is to report. The third tentative draft of an Incorporation Act will be considered at the present Conference.

No report has been received from the special Committee (88) on Cooperation with the American Institute of Criminal Law and Criminology. Commissioners Wigmore, Lawson and Blount are the members of this committee.

The committee had authority to print the Uniform Divorce Act, with the address accompanying it. The Secretary of the Divorce Congress, after a conference with the Attorney-General and Auditor-General of the Commonwealth of Pennsylvania, arranged for the printing and publication of 2500 copies and the payment for the same out of a balance of moneys standing to the credit of the Commission on Divorce, etc., of the Commonwealth of Pennsylvania, in connection with their duties as delegates to the Divorce Congress. Copies of the Divorce Act were sent by request to Prof. Charles A. Ellwood of the University of Missouri; Walter George Smith, Pennsylvania; Charles Thaddeus Terry, New York; W. O. Hart, Louisiana; Francis L. Siddons, Washington, D. C.; Robert Snodgrass, Pennsylvania; John C. Richberg, Illinois; Nathan William MacChesney, Illinois; Ernst Freund, Illinois; Senator John R. Thornton, United States Senate; Vice-Chancellor John R. Emery, New Jersey; Edward W. Frost, Wisconsin; Seneca N. Taylor, Missouri, and to Rome G. Browne, C. A. Severance and Edward Lees, of Minnesota.

The committee (81 and 89) also had authority to print and publish a digest of the Corporation Laws of the States of the United States. This digest has not been printed, as the authority was not accompanied with the financial provision for such publication.

The committee recommends that in the future reports of the proceedings of the Conference there be an index printed for more ready reference to such proceedings.

The committee has received from the Secretary (Sec. 7, By-laws) a report containing a summary of his transactions during the year, which report will be submitted to the Conference.

The committee would ask the especial attention of each Commissioner to the five sections of Article IV of the Constitution and of each member of a committee to Section 14 of the By-laws, as familiarity with and strict attention to the requirements of these sections will greatly facilitate the economical administration of the objects of the Conference.

Respectfully submitted,

WILLIAM H. STAAKE,
Chairman.

Milwaukee, Wis., August 20, 1912.

REPORT

OF THE

COMMITTEE ON COMMERCIAL LAW.

The committee respectfully reports that during the last year it has held three meetings, the first in New York, on November 6 and 7, the second in the same place, on May 3 and 4, and the third at the Hotel Pfister in Milwaukee, on August 20.

At the first meeting, the committee had under further consideration the Partnership Act; at the second meeting, it considered some thirteen amendments to the Negotiable Instruments Act, prepared by Professor Williston and submitted by him. One of the amendments was subsequently withdrawn, reducing the number to twelve.

At the meeting on August 20 the following resolutions were passed:

(1) That the amendments to the Negotiable Instruments Act be reported to the Conference without recommendation for consideration both as to the question of the policy of amendment in general and also as to the merits of the particular amendments;

(2) That the proposed Partnership Act be reported with a recommendation that it be adopted and recommended.

The committee will at the proper time submit these matters to this Conference.

TALCOTT H. RUSSELL,
Chairman.

REPORT

OF THE

COMMITTEE ON WILLS, DESCENT AND DISTRIBUTION.

For the Committee on Wills, Descent and Distribution, I desire to state that we have prepared the draft of a proposed act, and I ask that it be printed as part of our proceedings, and that the committee be authorized to have the same printed in pamphlet form, with such annotations as the Legislative Drafting Bureau, which has been employed in the matter by a resolution adopted last year, may prepare so that the same can be sent out to the Commissioners before the next Conference.

I ask the statement which I have now made, together with the draft of bill, be received and considered as the report of the committee for this year.

W. O. HART,
Chairman.

DRAFT OF PROPOSED ACT.

SECTION. 1. Any will duly proved, allowed and admitted to probate outside of this state, may be allowed and recorded in the probate court of any county in which the testator shall have left any estate.

SEC. 2. When a copy of the will and the probate thereof, duly authenticated, shall be presented by the executor or by any other person interested in the will, with a petition for probate, the same must be filed and a time must be appointed for a hearing thereon and such notice must be given as required by law for a petition for the probate of a will in this state.

SEC. 3. If, upon hearing, it appears to the satisfaction of the court that the will has been duly approved, allowed and admitted to probate outside of this state and that it was executed according to the law of the place in which the same was made or in which the testator was at the time domiciled, or in conformity with the laws of this state, it must be admitted to probate, which probate shall have the same force and effect and shall be subject to the same attack as the probate of a will first admitted to probate in this state.

REPORT

OF THE

COMMITTEE ON MARRIAGE AND DIVORCE.

To the Conference of Commissioners on Uniform State Laws:

The Committee on Marriage and Divorce respectfully reports:

At the last meeting of the Conference at Boston, in August, 1911, the Uniform Marriage and Marriage License Act was finally adopted. During the discussion upon the Marriage License Act the question of the validity of marriages in this or that state in evasion or violation of the laws of the state of domicile of both or either of the parties to such marriage was raised. Your committee, therefore, deemed it advisable to consider the question, and instructed its special Secretary to prepare a digest of statutes and decisions of those states which had already covered the subject. The committee held a meeting at Philadelphia, on October 28, 1911, and considered the matter quite fully. The conclusions then arrived at were formulated by their Secretary, and a second meeting was held in Philadelphia on April 8, 1912.

The final conclusions of your committee are embodied in the accompanying draft of "An Act Relating to and Declaring Void Marriages in Another State or Country in Evasion or Violation of the Laws of This State."

This draft of a uniform bill is accompanied by footnotes, and a digest of the statutes and decisions of various states, which have been prepared by the Secretary, and seem to contain all necessary information for intelligent consideration by the Commissioners.

All of which is respectfully submitted,

EDWARD W. FROST,
J. R. THORNTON,
SENECA N. TAYLOR,
F. L. SIDDONS,
ROBERT SNODGRASS,
JOHN R. EMERY,
ERNST FREUND,

Committee.

REPORT
OF THE
COMMITTEE ON UNIFORM INCORPORATION LAW.

At the Nineteenth Annual Conference of Commissioners on Uniform State Laws, held at Detroit, Michigan, August, 1909, upon motion of Commissioner Charles Thaddeus Terry of New York the Committee on Uniform Incorporation Law was directed by the Conference to prepare and print a tentative draft of an act to make uniform the law of incorporation of business corporations and have the same circulated for suggestions and criticisms sixty days prior to the meeting of the next annual Conference.

At the twentieth annual session of the Conference, held at Chattanooga, Tennessee, August, 1910, the committee made its report and presented the first tentative draft, with annotations and a digest of the corporation laws of the different states of the union, prepared by Mr. Terry, a member of the committee. The first twenty sections of this tentative draft were discussed by the Conference and finally, after suggestions and amendments had been accepted, were adopted by the Conference. Thereupon the Conference instructed the committee to prepare, print and circulate a second tentative draft, to be presented and acted upon at the next annual meeting of the Conference. The Chairman called a meeting of the committee to meet in New York on the 16th day of January, 1911, and prepared the second tentative draft.

At the Twenty-first Annual Conference, August, 1911, at Boston, special time was given for the consideration of this second tentative draft, upon which the Conference went into a "Committee of the Whole" on the second, third and fifth days of the session. During this time all sections of the act were discussed, suggestions and amendments made in reference thereto and the committee instructed to prepare a third tentative draft, a digest and analysis of the incorporation laws of the several

states and present such tentative draft for action at the next annual meeting.

For the purpose of considering and preparing a third tentative draft, the Chairman called a meeting of the committee, to be held on the 27th day of December, 1911, at the rooms of the Association of the Bar of the City of New York. The committee held two sessions each day on the 27th, 28th and 29th of December, 1911. The members of the committee present were: Erliss P. Arvine, John C. Richberg, Chicago, Illinois; John R. Emery, Newark, New Jersey; Charles E. Shepard, Seattle, Washington; Seneca N. Taylor, St. Louis, Missouri, and Charles Thaddeus Terry, New York City. There were also present, by invitation: Dean W. D. Lewis and Messrs. Heiser, Shapiro and Baker of the University of Pennsylvania, Mr. Charles A. Boston and Mr. Kuh, of the New York City Bar, who all took a lively interest in the proceedings and offered enlightening and valuable suggestions and amendments in reference to the different sections of the proposed act.

The draft, as now presented, is recommended for adoption. Only one member of the committee was absent from this meeting.

The interest in uniform legislation has been steadily upon the increase and at the present time not only every state in the union (forty-eight) has a Board of Commissioners for the purpose of promoting uniformity of legislation in the United States, but also in every territory and possession of the United States, namely: District of Columbia, Alaska, Hawaii, Philippine Islands and Porto Rico. The creation of state boards of Commissioners on uniformity of legislation throughout the union was inaugurated in 1890 by the General Assembly of the State of New York, when it created a Board of Commissioners on Uniform State Laws and invited the other states of the union to do likewise and the Commissioners of the different states to meet in annual conference to consider the subjects upon which uniformity was desirable and to promote legislation in reference thereto. While the present method of obtaining uniformity of legislation is not ideal and may even be considered in many of its aspects crude, nevertheless, it is the best that can be ob-

tained under present conditions. Personal desires, local, sectional or state jealousies, or pride, should give way before the furtherance of the general welfare. It is not too much to expect and believe that the time will come when there will be uniformity in the laws, both civil and criminal, in every state in the union by methods radically different from those now in vogue. Only then can we have real and lasting uniformity of legislation. Why have diversity in the law instead of unity in the several states if the standard of morality is uniform?

JOHN C. RICHBERG,
Chairman.

NOTE.—The tentative draft of act and annotations having been printed and distributed, heretofore, among the members, they are omitted.

REPORT

ON THE

TORRENS SYSTEM AND REGISTRATION OF LAND TITLES.

To the Honorable William H. Staake, Chairman of the Executive Committee.

DEAR SIR: The Committee on the Torrens System and Registration of Land Titles has the honor to report:

In accordance with the instructions of the last Conference, the Chairman of the committee sought information as to the working of the Torrens System in the states where it has been adopted. The replies to his inquiries are printed in the appendix to this report. After studying these replies, your committee is of the opinion that the time is not yet ripe for drafting a uniform law upon this topic. Had the experience of each state been of the kind reported by Massachusetts, and had the statutes in the other states been substantially uniform with that of Massachusetts, your committee would have advised the Conference to recommend the Massachusetts law for favorable consideration by all of the state legislatures.

Unfortunately, the experience of other states is quite at variance with that of Massachusetts. Attention is called, especially, to the replies from Illinois, which are most interesting and instructive. In the opinion of this committee, the Conference may well wait a few years, before attempting to draft a Uniform Torrens Law for adoption by our states. The fact that this system of land title registration has been used but little in the commonwealths which are experimenting with it, indicates that there is no very pressing call for it by those whose burdens it is intended to relieve.

FRANCIS M. BURDICK, *Chairman*,
ROME G. BROWN,
EDWARD KENT,
JOHN D. LAWSON.

July, 1912.

DISSENTING REPORT BY JOHN H. WIGMORE.

To the Chairman of the Executive Committee:

SIR.—With much regret I am obliged to file a dissenting report. The draft report of the majority concludes by recommending that “the Conference may wait for a few years before attempting to draft a Uniform Torrens’ Law.” I dissent for the following reasons:

I. The subject is one which calls for a uniform law.

II. The experience is adequate at this stage for determining which is the best type of law.

I. The function of this Conference is not to take up any and every worthy subject for a draft of a reform law, but to take up only those subjects in which uniformity of law is *per se* the desirable thing. Such subjects may be of three sorts. 1. Laws affecting transactions which in themselves commonly concern parties or things in different states and hence lead to confusion and uncertainty unless the law is uniform. Under this head belong the subjects of Negotiable Instruments, Bills of Lading, Corporations, etc. 2. Laws affecting a kind of business having interstate trade, in which unfair advantage may be taken of honorable men by unscrupulous men unless the law forces all to submit to the same conditions, and for which, therefore, state legislatures are not inclined to take new measures unless there is some prospect of a uniform law. In this class belong the Convict Labor Law and the Child Labor Law. 3. Laws concerning classes of transactions which several states have already regulated by some legislative reform, and others which now desire to do so by whichever, if any, of the existing measures is the most efficient, and, therefore, the need arises for a study of the various measures by some impartial body which can recommend the preferable measure if any. In this class the subject of *Registration of Land Titles* seems clearly to belong.

II. Has there been sufficient experience on that subject to justify the belief that the efficiency of the various types of law can now be ascertained with fair accuracy? There has. The Title Registration system has been in operation for several generations in Australia and in parts of Europe. In our own country there

are already six or eight states having such laws, and two of the most populous states have been operating under it for nearly fifteen years. Different types of law have been represented in this experience. The situation is, therefore, ready for an impartial investigation.

Referring now to the specific reasons offered by the majority report, they seem to me to be inadequate. There are really two questions: (a) Has the Optional Law proved successful as shown by popular patronage of the system? If not, what is the explanation? (b) Is a compulsory law needed in order to make the system a success?

The report of the majority considers only the first of these questions. Moreover, the reference of the majority report to that question is based on the replies received from the different states and the tenor of the report does not seem to me to be justified by those replies. The report states, "had the experience of each state been of the kind reported by Massachusetts, . . . your committee would have advised the Conference to recommend the Massachusetts law. Unfortunately, the experience of other states is quite at variance with that of Massachusetts. Attention is called especially to the replies from Illinois." Now in fact, five states are represented in the replies, and in only one of those five is there any unfavorable comment. The matter, therefore, is reduced to the unfavorable experience reported from Illinois, and this is especially contrasted in the majority report with the Massachusetts replies, where the experience has been for the same length of time.

Let us, therefore, analyze the Illinois replies. When the majority report states that "the experience of Illinois is quite at variance with that of Massachusetts" it may be referring either to the extent of popular use of the system, or to the personal opinion expressed by the informants who replied. Let us take the first of these points. (1) In Massachusetts (pop. 3,400,000) the system has been in force for fourteen years; the total petitions for registration numbered 3700 (by February, 1912) and the total valuation of these properties reached \$34,000,000. In Illinois, Cook County (pop. 2,500,000), the system has been in

force for fifteen years; the number of applications for registration has been 4885 (to May, 1912) and the total valuation of the properties has been about \$60,000,000. Comparing these figures I cannot see how it can be said that the popular success in Illinois is less than in Massachusetts. On the contrary it is substantially greater. (2) Turning to the next point, the personal opinions of the informants who report, it seems to me that the majority report has failed to take into consideration the personal equation which must always be regarded in estimating the value of information obtained on this subject. Of the six who report, five express themselves plainly as to what they call the success and efficiency of the system; three unfavorably and two favorably. It would be invidious in this place to give a specific reason for making a discount from the value of the three unfavorable opinions. I will only say that the two favorable opinions represent men who have no interest involved in either side and whose experience is simply that of persons having daily transactions in real estate and able to judge impartially from the point of view of the public interested in safe conveyancing. One of these two represents the Torrens' Committee on the Cook County Real Estate Board, the largest real estate board in the country, and emphatically favors the system. In the light of these comments it seems to me very plain that an impartial study of the situation in Illinois might ultimately induce the conclusion that the experienced and impartial. I annex his comment on my dissent.

And having come to this point, is it not permissible for us to take note frankly of the partisan nature of most of the opposition to the system? The aggressive intolerance of some of the opponents, as exhibited in times past to all who have had occasion to discuss the matter, leads to a natural suspicion that the cause which can excite such language may possibly be a very good cause which is simply treading on the toes of self-interest. Too much pains cannot be taken to sift the nature of this hostile testimony in attempting to reach an impartial verdict on the facts. I venture to believe that the majority report may have been made without sufficient allowance of this kind; and I frankly state, as my own attitude, that in this as in other matters,

wherever there appears a possibility that selfish vested interests are actively attempting to discredit and obstruct a needed reform, there is all the more reason for some impartial body to step in and investigate carefully into the truth. Good causes need the protection of such impartial bodies as this Conference, especially when there is no selfish interest to look to for undertaking the defense of a supposed good cause.

For these reasons I am obliged to record my opinion that the Conference should instruct its committee to investigate fully, as soon as may be, the experience in different states under the various land title registration systems, and to draft a uniform law, if upon investigation it appears to the committee that some one type of the laws now in force is a measure worthy of adoption by other states.

Respectfully submitted,

JOHN H. WIGMORE,
Commissioner of Illinois.

POSTSCRIPT.

The foregoing dissenting report was submitted to an intimate friend and colleague in this Faculty of Law who, after five years of service as chief examiner of titles in the Torrens office, was afterwards chief counsel for a Title Registration Company, and has now retired from that position. His judgment is both experienced and impartial. I annex his comment on my dissent.

July 13, 1912.

DEAR MR. WIGMORE: I am returning draft of your dissenting report as a member of the Committee on Registration of Land Titles.

I think the position you take is not only correct, but quite conservative. There are several things that your lack of familiarity with the operation of the system in Cook County caused you to overlook.

In the first place, the mere number of applications does not of itself indicate the extent to which land has been registered in Chicago. As contrasted with any city or county in Massachusetts, you will find that a great part of the land registered consists

of large tracts of either subdivided or unsubdivided land, the land in itself having at the present time perhaps no great commercial value, but destined as the city develops to increase very rapidly in value. The Torrens System is particularly adapted to the development of just this kind of property, and you will find upon an examination of the records in the Torrens office that the greatest potential development of the voluntary system is in connection with this kind of property, so that the mere value of the land is a factor not nearly so important as the area of land registered.

In the second place, another very important factor to investigate is the number of transfers of land after registration. You will be surprised if you examine the records to see the proportionate increase each year of parcels of land transferred. The vitality of the system depends upon whether or not it does facilitate and encourage the merchantability of land, both for purpose of sale and as security for loans on registered lands. I think the records, for the past five or six years, will demonstrate beyond question that this has been accomplished in a very unusual degree, notwithstanding all that may be said to the contrary upon the ground of the non-merchantability of Torrens titles. As I have already said, a great deal of this property consists of land having comparatively little value at the present time. To sell individual lots under such circumstances, can be done only at considerable expense. The cheapness and the facility which such lots can be disposed of under the land registration system, are very great inducements to disposing of it among people of small means, upon whom the burden of the present system in general use is so great. In other words, a man having, we will say, a subdivision of three hundred or four hundred lots, upon which he expects to realize two hundred or three hundred dollars per lot, can readily sell to a purchaser if he can assure him that the price is net without any expense at all in the way of abstract examination, lawyer's fees, etc. My own experience taught me that particularly among the foreign population, who are so accustomed to the Continental System of land transfer, this is a very great blessing. They place implicit faith in the act of a pub-

lic official, and are quite willing to accept a Torrens certificate of title where they would be very suspicious and timid in dealing with the class of lawyers with whom they are unfortunately brought into contact.

You, of course, realize that so far as people of means are concerned, if they choose to bear the burdens of the cumbersome and expensive system under which we have been operating for many years, one need not waste much energy in seeking a reform. On the other hand, the real burden rests upon people of very moderate means, and I have always felt it the duty of the state to relieve them of it, and any dispassionate person who will examine the records of the system in Cook County will surely become convinced that it can and will accomplish a very beneficent result if our better class of lawyers will stop their unintelligent criticisms, and lend their energies to an attempt to rectify certain features of the present law which are perhaps of doubtful constitutional validity.

As to the constitutionality of the law, none of the objections raised, are at all insuperable. They can easily be remedied by further legislation. To condemn a whole system merely because there are certain provisions of the Illinois Statute which may ultimately be declared unconstitutional, seems to me rather absurd. Of one thing I am convinced, that it will be a very bold Supreme Court that after a period of fifteen years, would dare to declare any of the vitally essential features of the Illinois law unconstitutional. Such a court would, in my judgment, stultify itself after once having had an opportunity to pass upon all of these questions as our Supreme Court did in the Simon case.

Very truly yours,

CHARLES G. LITTLE.

NOTE.—The "appendix" to the report, having been heretofore printed and distributed, is omitted.

REPORT
OF THE
COMMITTEE ON PUBLICITY.

To the Conference of Commissioners on Uniform State Laws:

I beg to state, as Chairman of the committee, that during the year I have kept the work of this Conference before the public in every way possible, through articles and notices in the newspapers and magazines. I appeared before the National Association of Boilermakers, at their convention in New Orleans, as they are working to establish a uniform law governing the inspection of boilers, and brought to their attention the work of this Conference. I also sent to the representative of the Associated Press in Milwaukee a summary of our work.

Respectfully submitted,

W. O. HART,
Chairman.

REPORT
OF THE
SPECIAL COMMITTEE ON UNIFORM WORKMEN'S
COMPENSATION ACT.

To the Conference of Commissioners on Uniform State Laws:

At the last meeting of the Conference it was voted that the committee continue its work, and prepare two drafts of acts to be submitted to the Conference in August, 1912, one framed upon the so-called elective basis, and the other framed as a compulsory act. The committee has done a good deal of work. It has received much assistance from members of the Legal Committee of the National Civic Federation, and from members of the Legislative Drafting Association.

The committee has prepared two acts, which are submitted herewith: one an elective act, the other a compulsory act.

Each member of the committee reserves to himself the right to suggest changes and additions in either act when the acts are considered by the Conference.

HOLLIS R. BAILEY, *Chairman*,
CHARLES THADDEUS TERRY, *Secretary*,
ALDIS B. BROWNE,
JOHN R. HARDIN,
PETER W. MELDRIM,
GEORGE WHITELOCK.

NOTE.—The report is not signed by Prof. Wigmore, as he is now in Europe. He rendered valuable assistance in the preparation of both acts.

NOTE.—The drafts of the two forms of act, having been heretofore printed and distributed, are omitted: but the form of act "tentatively approved" by the Conference, follows:

COMPENSATION ACTS IN THE UNITED STATES.

| | |
|---------------------------------|--------------------------------|
| Arizona. L. 1912, c. 000. | New Hampshire. L. 1911, c. |
| California. L. 1911, c. 399. | 163. |
| Illinois. L. 1911, p. 314. | New Jersey. L. 1911, c. 95. |
| Kansas. L. 1911, c. 218. | New York. L. 1910, c. 352. |
| Maryland. L. 1912, c. 000. | Ohio. 102 Ohio L. 524. |
| Massachusetts. L. 1911, c. 751. | Rhode Island. L. 1912, p. 821. |
| Massachusetts. L. 1912, c. 571. | Washington. L. 1911, c. 74. |
| Michigan. L. 1912, No. 3. | Wisconsin. L. 1911, c. 50. |
| Nevada. L. 1911, c. 183. | |

UNIFORM WORKMEN'S COMPENSATION ACT.

TENTATIVE DRAFT.

This act was framed by a special committee of the Conference of Commissioners on Uniform State Laws. The report made by the committee to the Conference, held in Milwaukee, Wisconsin, in August, 1912, was prepared in cooperation with the Legal Committee of the National Civic Federation, and with the assistance of the Special Committee on Workmen's Compensation of the American Bar Association, and of the Legislative Drafting Association.

The draft of act appended hereto is substantially the draft recommended to the Conference in the committee's report, with the exception that the provisions relating to "alternative schemes" were stricken out. As thus altered the act was approved, tentatively, by the said Conference.

CHARLES THADDEUS TERRY,
*President of Conference of Commissioners
on Uniform State Laws.*

UNIFORM WORKMEN'S COMPENSATION ACT.

An act to make uniform the law relating to compensation to employees for personal injuries sustained in the course of their employment.

Be It Enacted, etc., as follows:

I.

RIGHTS AND REMEDIES GRANTED AND AFFECTED HEREIN.

SECTION 1. *Employments Covered.*—This act shall apply only to the hazardous trades and occupations, a schedule of which is hereto appended. If a workman employed in such a trade or occupation receives personal injury arising out of and in the course of such employment, his employer shall pay compensation in the amounts and to the person or persons hereinafter specified.

NOTE.—“Personal injury arising out of and in the course of such employment”—substantially the same language is used in nearly all the acts passed in this country. The phrase is defined in Sec. 59 (e).

“His employer shall pay”—Ohio is the only state which requires the employee to contribute.

SEC. 2. *State and Municipal Bodies.*—This act shall not apply to employees of the state, counties, cities, towns, or other municipal bodies.

NOTE.—The committee is of the opinion that there should be a workmen's compensation law applying to state and municipal employees, but by reason of the varying pension systems and other means of affording relief, deems it better to leave such employees to be covered by special provisions in the different states.

SEC. 3. *Injuries not Covered.*—No compensation shall be allowed for an injury caused (1) by the employee's wilful intention to injure himself or to injure another, or (2) by his intoxication.

NOTE.—This is substantially the same as the language used in the Federal bill, now before Congress. In New Hampshire, New Jersey and Kansas, intoxication is a bar to compensation. In New Jersey, Illinois, Kansas, Ohio, and Washington, compensation is barred if the employee intended to cause the particular injury in question.

SEC. 4. *Right to Compensation Exclusive.*—The rights and remedies herein granted to an employee on account of a personal injury for which he is entitled to compensation under this act shall be exclusive of all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury.

NOTE.—All the elective acts make the compensation scheme, when elected, the exclusive remedy, with certain minor exceptions.

SEC. 5. *Independent Contractor's Liability.*—(a) A principal or intermediate contractor shall be liable to pay to any employee employed in the execution of the work under the first or any subsequent one of his sub-contractors, any compensation under this act which the immediate employer is liable to pay.

(b) Where the principal or any intermediate contractor shall have paid any compensation under this section, he shall, unless he caused the injury, be entitled to full indemnity over from any person who would have been liable to pay compensation to the workman independently of this section.

(c) Nothing in this section shall be construed as preventing a workman from recovering compensation under this act from his immediate employer, instead of the principal or any intermediate contractor, and the institution of a proceeding against the one shall not operate as a waiver of his rights against the other, but he shall not collect from both more than full compensation.

(d) This section shall apply only in cases where the injury occurred on or in or about the premises on which the principal or intermediate contractor has undertaken to execute work, or which are otherwise under his control or management.

NOTE.—Similar provisions are found in Illinois, Kansas, Massachusetts, Nevada, and in the New York compulsory act.

SEC. 6. *Other Persons' Liability.*—Where an injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the employee may proceed either at law against that person to recover damages, or by proper proceedings against the employer for compensation under this act, or may proceed against both, but shall not collect from both. If, however, the amount collected from such other person is less than the amount of compensation provided in this act, the employee may collect the deficiency from the employer.

If any compensation be paid under this act, either directly or by way of indemnity by or on behalf of any person who, in the absence of a compensation act, would not have been held liable

to the employee for damages as a joint tort-feasor—such person may enforce in the name of the workman or in his own name and for his own benefit, so far as may be necessary to indemnify him, the liability of such other person for damages.

Such other person, however, shall not be so liable if he has satisfied any judgment recovered against him by the employee for such injury, but shall be liable to the employer or person who has paid the compensation upon any judgment recovered by the employee which remains unsatisfied, so far as may be necessary to indemnify the employer or person who has paid the compensation.

NOTE.—Except in California, New Hampshire, New Jersey, New York, Ohio, and Wisconsin, all the acts contain substantially similar provisions. In Illinois and Kansas the employee may proceed against both parties, but cannot collect from both; in Massachusetts, Michigan, Nevada, Washington, and in the Federal bill, he must make his choice. In Illinois and Kansas, and in the Federal bill, the employer is confined to indemnity from the third party; in Massachusetts, Michigan, Nevada and Washington, he can recover whatever the employee could have recovered.

SEC. 7. *Contracting Out Forbidden.*—No contract, rule, regulation, or device whatsoever shall operate to relieve the employer in whole or in part from any liability created by this act.

NOTE.—Substantially the same as the Federal bill. Illinois, Massachusetts, Michigan, Nevada and Washington, have provisions with a like object.

II.

AMOUNT OF COMPENSATION ALLOWED.

SEC. 8. *Amounts.*—Where the injury causes death the compensation under this act shall be as follows:

(a) The employer shall, in addition to any other compensation, pay the reasonable expenses of the employee's last sickness and burial, not to exceed \$100. If the employee leaves no dependents this shall be the only compensation.

(b) If the workman (1) leaves a widow, or (2) leaves a female unmarried child under twenty-one years of age or a male child under eighteen years of age, or (3) leaves any person or

persons wholly dependent upon him, the compensation shall be a sum equal to [208] times his average weekly wages; in no case, however, shall such sum be more than [\$3000] or less than [\$1000]; and the amount of any compensation paid under this act before death, including any amounts paid under Section 20, shall be deducted therefrom.

(c) If the workman does not leave (1) a widow, or (2) a female unmarried child under twenty-one years of age or a male child under eighteen years of age, or (3) any person or persons wholly dependent upon him, but leaves any person or persons in part dependent upon him, the compensation shall be such portion of the amount payable under paragraph (b) of this section as may be proportionate to the loss of support by the said person or persons in part dependent.

NOTE.—As to (a): All the acts allow such expenses. Washington, Ohio and the Federal bill provide for their payment in addition to other compensation.

NOTE.—As to (b): In California, Wisconsin, Massachusetts, Michigan, Washington, and in the Federal bill, the widow and children under sixteen, whether or not dependent, receive compensation as wholly dependent.

NOTE.—As to (c): This distinction between wholly and partly dependent is found in all the acts except Washington, Illinois, New Jersey, and, in part, in the Federal bill.

SEC. 9. *Trustee to Recover and Disburse Death Benefits.*—The compensation payable in case of death where there are dependents shall be paid by the employer to some suitable person or corporation as trustee to hold and disburse the same for the benefit of the dependents entitled thereto.

NOTE.—Except in Kansas, New Hampshire, Nevada, and New York, death benefits are paid in periodical instalments.

SEC. 10. *Appointment of Trustee.*—Such trustee shall be appointed by the court on petition of any dependent or other party interested after such notice as the court deems proper.

SEC. 11. *Collection of Compensation by Trustee.*—Such trustee shall take such steps as are necessary and proper according to the provisions of this act to obtain payment of compensation

due from the employer, and his receipt for the amount paid shall discharge the employer or any one else who is liable therefor.

SEC. 12. *Compensation of Trustee.*—The court shall fix the amount to be allowed such trustee for his or its services and expenses, and the same shall be paid out of the fund in the hands of the trustee, but not until the same has been fixed and allowed by the court.

SEC. 13. *Deposit by Trustee.*—Any money received by such trustee shall be deposited by him, in his name as trustee, in an appropriate bank or other depository designated by the court, and with a separate account for each trust fund.

SEC. 14. *Bond of Trustee.*—Any such trustee may be required by the court to give a bond with a surety or sureties approved by the court, and in a form to be prescribed by the court to secure the faithful performance of his duty.

SEC. 15. *Instructions to Trustee.*—Any such trustee may from time to time, and at any time, petition the court for instructions as to his duty as to any matter arising under this act.

SEC. 16. *Distribution by Trustee.*—Death benefits paid to the trustee shall be apportioned among the dependents as the court may determine, and shall be paid to such dependents periodically at such times and in such amounts as may be fixed by the trustee, subject to the approval of the court. The court may from time to time, and at any time, modify its decrees or orders under this section.

SEC. 17. *Final Distribution.*—The trustee, with the approval of the court, may at any time make a final distribution of the money remaining in his hands among those entitled to the same, and upon the approval by the court of his final account he shall be discharged as trustee.

SEC. 18. *Surplus Remaining on Death of Dependents.*—In case there is any surplus remaining on the death of all the dependents, it shall go to such persons and in such manner as the last surviving dependent shall appoint by will, and in default of any such appointment then to the legal distributees of such dependent.

SEC. 19. *Removal of Trustee.*—Any such trustee may be removed by the court for cause shown and a new trustee appointed in his place.

SEC. 20. *Medical Attendance.*—At any time after the injury and until the expiration of two weeks of incapacity, the employer, if so requested by the workman or if so ordered by the court, shall furnish reasonable surgical, medical, and hospital services and supplies, not exceeding \$100.

NOTE.—A similar provision is found in California, Illinois, Massachusetts, Wisconsin, New Jersey, Ohio and Michigan, and in the Federal bill.

SEC. 21. *Total Incapacity.*—Where the injury causes total incapacity for work the employer, during such incapacity and for a period of [ten] years beginning on the fifteenth day of such incapacity, shall pay the injured employee a weekly compensation equal to one half his average weekly wages, but not more than ten dollars, nor less than four dollars a week. In no case shall the weekly payments continue after the incapacity ends. In case of an employee whose average weekly wages are less than four dollars a week the weekly compensation shall be the full amount of such average weekly wages.

In the case of the following injuries the incapacity caused thereby shall be deemed total and permanent, to wit:

- (1) The total and permanent loss of sight in both eyes.
- (2) The loss of both feet at or above the ankle.
- (3) The loss of both hands at or above the wrist.
- (4) The loss of one hand and one foot.
- (5) An injury to the spine resulting in permanent and complete paralysis of the legs or arms.
- (6) An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration is not to be taken as exclusive.

NOTE.—“Beginning on the fifteenth day”—the malingering period is two weeks in Kansas, Massachusetts, Michigan, New Hampshire, New Jersey, New York, and in the Federal bill.

“Employee whose average weekly wages are less than four dollars a week”—provisions of a similar nature are found in Kansas, New Jersey and Ohio.

As to (2): A similar list is found in Illinois, Michigan, New Jersey, Washington, and in the Federal bill.

SEC. 22. *Partial Incapacity*.—Where the injury causes partial incapacity for work, the employer, during such incapacity and for a period of [six] years beginning on the fifteenth day of such incapacity, shall pay the injured workman a weekly compensation equal to one-half the difference between his average weekly wages before the accident and the weekly wages he is most probably able to earn thereafter, but not more than ten dollars a week. In no case shall the weekly payments continue after the incapacity ends, and in case the partial incapacity begins after a period of total incapacity the period of total incapacity shall be deducted from such period of [six] years.

In the case of the following injuries the compensation shall be one-half of the average weekly wages to be paid weekly for the periods stated against such injuries respectively, to wit:

(1) The loss by separation of one arm at or above the elbow joint, or the permanent and complete loss of the use of one arm, 312 weeks.

(2) The permanent and complete loss of hearing in both ears, 312 weeks.

(3) The loss by separation of one leg at or above the knee joint, or the permanent and complete loss of the use of one leg, 286 weeks.

(4) The loss by separation of one hand at or above the wrist joint, or the permanent and complete loss of the use of one hand, 247 weeks.

(5) The loss by separation of one foot at or above the ankle joint, or the permanent and complete loss of the use of one foot, 208 weeks.

NOTE.—The impairment of earning capacity is the basis of compensation, except in New Jersey, Washington, and, in part, in the Federal bill, for permanent partial incapacity, and, except in Illinois, New Jersey, and, in part, in the Federal bill, for temporary partial incapacity.

As to (2): A similar list is found in Michigan, New Jersey, and in the Federal bill. The principle is recognized in the Washington act.

SEC. 23. *Computation of Wages.*—Average weekly wages shall be computed in such a manner as is best calculated to give the rate per week at which the workman was being remunerated during the preceding twelve months; *provided that* where, by reason of the shortness of the time during which the workman has been in the employment, or the casual nature of the employment or the terms of the employment, it is impracticable to compute the rate of remuneration, regard may be had to the average weekly wages which, during the twelve months previous to the injury, were being earned by a person in the same grade employed at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district.

If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the year and with larger regular wages, only such wages shall be taken into consideration in computing his average weekly wages.

SEC. 24. *Voluntary Payments.*—Any payments made by the employer or his insurer to the injured workman during the period of his incapacity or to his dependents, which, by the terms of this act, were not due and payable when made, may, subject to the approval of the court, be deducted from the amount to be paid as compensation; *provided that* in case of incapacity such deduction shall be made by shortening the period during which compensation must be paid, and not by reducing the amount of the weekly payments under Sections 21 and 22.

SEC. 25. *Periodical Payments.*—The court, upon the application of either party, may in its discretion, having regard to the welfare of the employee and the convenience of the employer, authorize compensation to be paid monthly or quarterly instead of weekly.

SEC. 26. *Lump Sum Payments.*—Whenever payments of compensation to an injured workman have continued for not less than six months, the remaining liability for incapacity may be discharged in whole or in part by the payment of a lump sum

by agreement of the parties interested, subject to the approval of the court.

NOTE.—Commutation of periodical payments is provided for in nearly all the acts. The language used here is substantially the same as in Massachusetts and Michigan.

SEC. 27. *Trustee in Case of Incapacity.*—Whenever for any reason the court deems it expedient, any lump sum which is to be paid as provided in Section 26 shall be paid by the employer to some suitable person or corporation appointed by the court as trustee to hold the same for the benefit of the employee entitled thereto. The receipt of such trustee for the amount paid shall discharge the employer or any one else who is liable therefor.

SEC. 28. *Powers of Such Trustee.*—Any such trustee shall be subject to the provisions of Sections 9 to 19, inclusive, so far as the same are applicable.

III.

PROCEDURE IN OBTAINING COMPENSATION.

SEC. 29. *Medical Examination.*—After an injury and during the period of incapacity, the workman, if so requested by his employer, or ordered by the court, shall submit himself to examination, at reasonable times, to a duly qualified physician or surgeon designated and paid by the employer. The workman shall have the right to have a physician or surgeon designated and paid by himself present at such examination. If a workman refuses to submit himself to or in any way obstructs such examination, his right to take or prosecute any proceeding under this act shall be suspended until such refusal or obstruction ceases, and no compensation shall be payable for the period during which such refusal or obstruction continues.

NOTE.—Substantially the same as the Federal bill, Wisconsin, California, New York, Michigan, Massachusetts and New Jersey. All the acts, except Ohio, contain similar provisions.

SEC. 30. *Notice of Injury and Claim for Compensation.*—No proceedings under this act for compensation for an injury shall be maintained unless a notice of the injury shall have been

given to the employer as soon as practicable after the happening thereof, and unless either a claim for compensation with respect to such injury or any payment under Sections 8, 21, or 22 of this act shall have been made within six months after the date of the injury; or, in the case of death, then within six months after such death, whether or not a claim had been made by the employee. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one on his behalf.

NOTE.—This and the three following sections are substantially the same as in all the acts. The details as to form and service vary in the different states.

SEC. 31. *Form of Notice and Claim.*—Such notice and such claim shall be in writing, and such notice shall contain the name and address of the employee, and shall state in ordinary language the time, place, nature, and cause of the injury, and shall be signed by him or by a person on his behalf, or, in the event of his death, by any one or more of his dependents or by a person on their behalf. The notice may include the claim.

SEC. 32. *Giving of Notice and Making of Claim.*—Any notice under this act shall be given to the employer, or, if the employer be a partnership, then to any one of the partners. If the employer be a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or any agent in charge of the business at the place where the injury occurred. Such notice shall be given by delivering it or by sending it by mail by registered letter addressed to the employer at his or its last known residence or place of business. The foregoing provisions shall apply to the making of a claim.

SEC. 33. *Sufficiency of Notice.*—A notice given under the provisions of Section 30 of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature, or cause of the injury, or otherwise, unless it is shown that the employer was in fact misled to his injury thereby. Want of notice shall not be a bar to proceedings under this act if it be shown that the employer, his agent or representative, had knowledge of the accident.

SEC. 34. *Limitation of Time.*—No limitation of time provided in this act shall run as against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian, or next friend.

NOTE.—A similar provision is contained in the Federal bill, and in New Hampshire, New York, Kansas and Illinois.

SEC. 35. *Agreements.*—Compensation under this act may at any time after fourteen days of incapacity on the part of the employee, or after his death, be settled in accordance with the terms of this act by agreement, but no agreement shall be valid unless approved by the court.

NOTE.—Approval of agreements is provided for in Massachusetts, Michigan and Wisconsin. The delay of fourteen days is required in the Federal bill.

SEC. 36. *Arbitration.*—If compensation be not so settled by agreement, then—

(a) If any committee created by the employer and his employees exists for the purpose of settling disputes under this act, the matter may, if both parties so consent in writing, be settled in accordance with their rules by such committee.

(b) If there is no such committee, or if the parties fail to request its action, or the committee fails to make and file an award within ninety days from the date of the submission, the matter may be settled by one or more arbitrators agreed on, after fourteen days of incapacity on the part of the employee, by the parties. The consent to arbitration by such committee or arbitrator or arbitrators shall be in writing and signed by the parties. It may limit the time within which the award must be made. No award of such committee, arbitrator, or arbitrators shall be valid unless approved by the court.

NOTE.—This and the five following sections were adopted from the Kansas act and the Civic Federation Bill.

SEC. 37. *Duties of Committee or Arbitrators.*—The committee or arbitrators shall be bound by the provisions of this act in making their award. They shall make and file their award, with the consent to arbitration attached, in the clerk's office of

the [Probate] Court for the county where the accident occurred, within the time limited in the consent, or, if no time limit is fixed therein, within ninety days after the submission, and shall give notice of such filing to the parties by mail.

SEC. 38. *Fees of Committee or Arbitrators.*—The fees of the committee or arbitrators shall be fixed by the court where the award is filed and paid by the [county].

SEC. 39. *Form of Agreements and Awards.*—Every agreement for compensation shall be in writing, signed by the parties, and every award shall be in writing, and signed by a majority of the committee or by a majority of the arbitrators. Every agreement and award shall specify the amount due and unpaid by the employer to the employee up to the date of the agreement or award, and, if any, the amount of the weekly payments thereafter to be made by the employer to the employee and the length of time such payments shall continue. Every agreement or award shall also specify the average weekly wages of the employee as defined in this act, the nature of the incapacity, whether total or partial, and whether permanent or temporary. In case of death there shall also be stated in the agreement or award the name of the widow, if any, the names and ages of children under sixteen, the names and ages of children over sixteen, if dependent, and the names of the other dependents, if any, and the extent of the dependency of the children over sixteen, and of the other dependents, whether the same be total or partial. The agreement or award shall also state the amount to be paid in case of death, where the employee leaves no widow and no child under sixteen and persons only partially dependent; also the reasonable expenses of the last sickness and burial.

SEC. 40. *Enforcement of Agreements and Awards.*—The clerk of court shall file and docket any such agreement or award. Nothing herein shall be construed to prevent either of the parties from filing such agreement or award. Whenever an agreement or award has been filed and approved by the court the successful party may obtain from the court orders, decrees, or judgment in accordance therewith, and the court may require the employer to

furnish security for the performance of such orders, decrees, or judgment.

SEC. 41. *Modification of Agreements or Awards.*—Agreements or awards may be modified at any time by subsequent agreements or awards obtained and approved by the court as aforesaid. All such subsequent agreements or awards shall be filed and enforced in the same manner as original agreements or awards.

SEC. 42. *Petition to Court.*—All claims or questions arising under this act, if not settled or determined by agreement or arbitration as hereinbefore provided, shall be settled or determined on petition to the [Probate] Court.

SEC. 43. *Powers of Said Court.*—Said court shall have full and original jurisdiction and in addition to its present powers shall have such equity or other powers as are needed to grant and enforce the relief provided for by this act. The petitioner, without giving bond, shall be entitled to such process of attachment, either by garnishment or otherwise, against the property of the respondent as may be proper and necessary to secure performance or satisfaction of any orders, decrees, or judgments which may have been or may thereafter be made or rendered in the proceedings. Any attachment so made may be dissolved by the respondent by giving the petitioner a bond in an amount and with a surety or sureties satisfactory to the court, binding the respondent to perform or satisfy all orders, decrees, or judgments which have been or may be made or rendered in the proceeding.

SEC. 44. *Rules of Procedure.*—The court aforesaid may make rules not inconsistent with this act for the carrying out the provisions of this act. Process and procedure under this act shall be as summary and untechnical as reasonably may be, and cases under this act shall, as far as possible, have precedence over all other civil cases.

SEC. 45. *Examiners.*—Said court may, if necessary, appoint masters or examiners to ascertain and report the facts or evidence, and may also appoint medical examiners to examine the injured workman and report as to his condition. The reports of such masters and examiners shall be made as promptly as possible.

SEC. 46. *Compensation of Examiners.*—The compensation of such masters and examiners shall be fixed by the court and paid by the [county].

SEC. 47. *Appeal.*—There shall be a right of appeal to the highest court on questions of law, and said court of original jurisdiction may report or certify questions of law to the highest court for its determination, and such cases shall, as far as possible, have precedence over all other civil cases in such higher court.

SEC. 48. *Venue.*—Proceedings shall be brought in the county where the accident occurred. The court where any proceeding is brought shall have power to grant a change of venue.

NOTE.—The acts of California, Michigan, Ohio, and the Federal bill, are the same.

SEC. 49. *Decrees Modified.*—At the request of any party interested, the court, after due notice, may from time to time and at any time review, and end, diminish, or increase, subject to the maximum and minimum amounts above specified, any compensation other than death benefits previously fixed or determined by agreement, arbitration, or proceeding under this act.

NOTE.—Similar provisions for review are found in the Federal bill, and in Illinois, Kansas, Massachusetts, Michigan, Nevada, New Jersey, Ohio and Washington.

SEC. 50. *Enforcement of Decrees.*—Decrees, judgments, or orders of the court in compensation proceedings under this act shall be enforceable like ordinary decrees, judgments, or orders. When compensation is ordered, decreed, or adjudged, either in a lump sum or in periodical payments, the court may require security to be given by the respondent for the payment of the same according to the terms of the order, decree, or judgment.

SEC. 51. *Injuries Received Outside the State.*—Said court in the case of injury occurring outside of this state and where the employer cannot be reached by legal process in the state where the accident occurred shall have power to grant relief in accordance with any law providing compensation for such injury at the place where the same occurred.

IV.

PREFERENCES AND ASSIGNMENTS.

SEC. 52. *Preferences.*—All rights of compensation granted by this act shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for unpaid wages for labor.

NOTE.—The provisions of this and of the following section are found in nearly all the acts.

SEC. 53. *Assignments; Attorneys' Fees.*—No claims for compensation under this act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors except claims of attorneys and of physicians for services under this act, which latter claims shall be subject to the approval of the court.

V.

INSURANCE.

SEC. 54. *Insurance Policies.*—All policies insuring the payment of compensation under this act must contain a clause to the effect that as between the employee and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer; that jurisdiction of the insured for the purposes of this act shall be jurisdiction of the insurer; and that the insurer shall in all things be bound by and subject to the awards, judgments, or decrees rendered against such insured.

SEC. 55. *Insurance Policies.*—Such policies must provide that the employees shall have a first lien upon any amount which shall become owing on account of such policy to the insured from the insurer, and that in case of the legal incapacity or inability of the insured to receive the said amount and pay it over to the employee, or his dependents, the said insurer shall pay the same directly to said employee, or to the trustee for him or for his dependents, thereby discharging to the extent thereof the obligations of the insured to the employee, and such policies shall contain no provision relieving the insurer from payment when

the insured becomes insolvent or discharged in bankruptcy or otherwise during the period that the policy is in operation, or the compensation remains owing.

VI.

REPORTS AND DEFINITIONS.

SEC. 56. *Report of Accidents by Employers.*—Every employer shall report to the [State Insurance Commissioner] monthly all injuries, fatal or otherwise, received by his employees in the course of their employment. Such reports shall be upon printed blanks procured from said [Commissioner], and shall contain the name and nature of the business of the employer, the location of his establishment or place of business, the name, age, sex, and occupation of each injured employee, and shall state the date and hour of the accident, the nature and cause of the injury, and such other information as may be required by said [Commissioner]. Every employer shall make such other reports as said [Commissioner] may require.

NOTE.—Similar provisions are found in Kansas, New Jersey, Washington, Massachusetts, Michigan, Illinois, Ohio, New Hampshire, and in the Federal bill.

SEC. 57. *Reports not Evidence.*—Reports made in accordance with Section 56 shall not be evidence against the employer in any proceeding either under this act or otherwise.

SEC. 58. *Penalty for Failure to make Reports.*—Any employer who refuses or neglects to make the report required by Section 56 shall be punished by a fine of not more than [fifty] dollars for each offense. The failure to include in a report any particular injury shall be a separate offense.

SEC. 59. *Definitions.*—In this act, unless the context otherwise requires:

(a) "Employer" includes any body of persons corporate or unincorporated and the legal representative of a deceased employer. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independ-

ent contractor, or for any other reason, is not the direct employer of the workmen there employed. Whenever necessary to give effect to Section 5 it includes a principal or intermediate contractor.

(b) "Workman" is used as synonymous with "employee," and means any person who has entered into the employment of, or works under contract of service or apprenticeship with an employer. It does not include a person whose employment is purely casual or not for the purpose of the employer's trade or business, or whose remuneration exceeds \$2000 a year. The term "workman" shall include the singular and plural and both sexes. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependents as herein defined, or their trustee, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(c) "Dependent" means a widow or a female unmarried child under twenty-one years of age or a male child under eighteen years of age whether or not such widow or child is actually dependent for support upon the employee at the time of his death, and any persons wholly or in part dependent for support upon the employee at the time of his death.

(d) "Injury" or "personal injury" includes death resulting from injury.

(e) The words "personal injury arising out of and in the course of such employment" shall include not only injuries to employees whose services are being performed on, in, or about premises which are occupied or controlled by the employer, but also, except as to liability imposed by Section 5, injuries to those who are engaged elsewhere in places where their employer's business requires their presence and subjects them to dangers incident to the business.

The words shall not include an injury caused by the wilful act of a third person directed against an employee for reasons personal to such employee or not directed against him as an employee or because of his employment.

They shall not include a disease except as it shall result from the injury.

(f) Employment in a hazardous trade or occupation includes only employment in a trade or occupation which is carried on by the employer for the sake of pecuniary gain.

(g) The word "Court," whenever used in this act, unless the context shows otherwise, shall be taken to mean the court mentioned in Section 42 of this act.

(h) "Partial incapacity." Diminished ability to obtain employment owing to disfigurement resulting from an injury may be held to constitute partial incapacity.

(i) "Wages" shall include the market value of board, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as a part of his remuneration.

"Wages" shall not include any sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

NOTE.—As to (b): The words "casual and not for the purpose of the employer's trade or business" are used in California, Illinois, and in the Federal bill. In Massachusetts, Michigan and Wisconsin "or" is used instead of "and."

NOTE.—As to (c): In Ohio and California the class of dependents is not limited to members of the family or relatives.

NOTE.—As to (e): This is substantially the same as the Federal bill.

VII.

EFFECT OF THIS ACT.

SEC. 60. *Prior Injuries.*—The provisions of this act shall not apply to injuries sustained, or accidents which occur, prior to the taking effect hereof.

SEC. 61. *Rules of Construction.*

(a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

(b) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

SEC. 62. *Prior Statutes.*—All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 63. *Time of Taking Effect.*—This act shall take effect on the — day of — one thousand nine hundred and —.

SEC. 64. *Title of Act.*—This act may be cited as the Uniform Workmen's Compensation Act.

NOTE.—In all the sections of the foregoing act where brackets appear the words and figures included within the brackets are intended to be suggestive merely, and may be varied to meet local conditions.

The title may be enlarged in those states where it is necessary to meet constitutional requirements.

SCHEDULE OF HAZARDOUS TRADES AND OCCUPATIONS.

The operation of:

| | |
|-------------------------------|---------------------------------|
| Railroads, | Marble-cutting or polishing |
| Vessels, | plants,* |
| Terminal docks, | Ship-building plants,* |
| Terminal warehouses, | Ship-repairing plants,* |
| Street railways, | Mines, |
| Factories, | Mining plants, |
| Mills,* | Quarries, |
| Power laundries,* | Heating plants, |
| Power bakeries,* | Lighting plants, |
| Foundries,* | Power plants, |
| Forges,* | Water works, |
| Smelters,* | Pumping works, |
| Blast furnaces,* | Coal yards, |
| Coke-burning plants,* | Lumber yards, |
| Lime-burning plants,* | Building-material yards, |
| Bleaching works,* | Junk yards, |
| Dyeing works,* | Malt houses, |
| Potteries,* | Freight or passenger elevators, |
| Phosphate works,* | Grain elevators, |
| Rendering works,* | Derricks, |
| Slaughter houses,* | Stock yards, |
| Meat-packing establishments,* | Harvesting machinery, |
| Brickyards,* | Threshing machinery. |

NOTE.—Omit all items marked (*) which are covered by the statutory definition of the term "factory" in the law of the particular state.

The construction, erection, extension, repair, or demolition of:

| | |
|-----------------------|------------------------------|
| Tunnels or subways, | Dikes or dams, |
| Underground conduits, | Jetties or breakwaters, |
| Sewers, | Bridges, |
| Gas or water mains, | Piers, |
| Wells, | Docks, |
| Aqueducts, | Oil or gas tanks, |
| Canals, | Electric wires or cables and |
| Reservoirs, | their supports. |

Any occupation entailing the manufacture, transportation, care of, use of, or regular proximity to, dangerous quantities of:

| | |
|------------|----------------------------------|
| Gunpowder, | Nitroglycerine, |
| Dynamite, | Other like dangerous explosives. |

The construction, erection, extension, alteration, decoration, repair, demolition, or removal of buildings or of structural appurtenances thereof.

The installation, erection, repair, or removal of boilers, furnaces, engines and other forms of machinery; work on or about wires or apparatus charged with dangerous electric currents; the construction, maintenance, and repair of ways of railroads and street railways; transportation by rail or water; rigging or coal-ing vessels or loading or unloading the cargoes thereof; logging and lumbering; harvesting and storing ice; paving with asphalt or other molten material; excavating or grading with power machinery or with the use of an explosive; caisson work; working in compressed air; dredging; pile driving; boring; moving safes; chimney sweeping; outside window cleaning above street floor.

NOTE.—This schedule is intended to be suggestive only and may be modified to suit the policy of each state.

The committee also drafted and submitted an "elective" form of act which is omitted from this volume. (See text of same in 1912 Proceedings of Uniform Commissioners, pages 164-181.)

REPORT
OF THE
SPECIAL COMMITTEE ON THE SITUS OF REAL AND PERSONAL
PROPERTY FOR PURPOSES OF TAXATION.

To the Conference of Commissioners on Uniform State Laws:

The Special Committee on the Situs of Real and Personal Property for purposes of Taxation respectfully reports:

I.

ELIMINATION OF INTRA-STATE QUESTIONS.

The question of situs may arise as between different taxing districts in the same state and as between different states.

Your committee has considered the latter question alone since the Conference of Commissioners is not concerned with problems which are purely internal to any state.

II.

REAL ESTATE.

The situs of real estate (not considering mortgages as real estate) for purposes of the property tax offers no difficulty. There is with reference to such property no conflict of jurisdiction, no double taxation, and no need of legislation.

In the taxation of corporate stock or capital (unless treated as a franchise tax), allowance is generally made for the separate local taxation of the corporate real estate, so that in this respect, likewise, there has been no problem of double or conflicting taxation. (Seligman, *Essays on Taxation*, pp. 220, 221.)

Even for the purpose of computing the amount of property subject to an inheritance tax, real property lying outside of the jurisdiction is not taken into account. (137 N. Y. 77; 210 Ill.

380; 37 Cyc. 1564, citing also cases from Louisiana and Pennsylvania.)

In view of the insignificant part played in the revenue systems of the states by the income tax, it is unnecessary at the present time to consider the taxability of income from real estate lying in jurisdictions other than the taxing jurisdiction.

III.

THE LAW REGARDING TANGIBLE PERSONAL PROPERTY.

1. *Fixed Situs*.—The law regarding the situs of tangible personal property having a fixed situs has been much simplified by the decision of the Supreme Court of the United States in *Union Transit R. Co. vs. Kentucky*, 199 U. S., 194, holding that the maxim *mobilia sequuntur personam* “does not apply to tangible personal property permanently located in another state where it is employed and protected, acquires a situs and is subject to be there taxed irrespective of the domicile of the owner”; and “that an attempt on the part of the state in which the owner is domiciled to tax such property amounts to a deprivation of property without due process of law within the purview of the Fourteenth Amendment.”¹

What has been said with regard to real estate, therefore, applies as well to personal property which is permanently located. Only with regard to the inheritance tax a question may arise (see 137 N. Y., 77) and a uniform rule settling that question seems desirable. (See *infra* VI., 1, b.)

2. *Shifting Situs*.—Property which moves from state to state, either being a vehicle for carrying goods, or being goods carried, or being employed at different times in different jurisdictions, offers a special problem of situs.

(a) As to ships, the law is now settled by Supreme Court decisions so that the possibility of double taxation is greatly diminished, if not entirely eliminated. If the ship is employed

¹ The tax law of New York speaks of personal property owned in the state, but personality of foreign situs is not taxed. 23 N. Y., 224; 84 App. Div. 469; 116 App. Div., 161.

exclusively in one state, it is taxable only in that state (*Old Dominion S. S. Co. Case*, 198 U. S., 299); if not employed exclusively in one state, it is taxable only at the domicil of the owner (*So. Pac. R. Co. vs. Kentucky*, 222 U. S. 63); the place of enrollment or registry is not controlling (*Ayer Co. vs. Kentucky*, 202 U. S., 400). (See VI, 1, *e. f.*)

(b) Rolling stock is taxable in every jurisdiction in which it is regularly though transitorily employed (*Pullman Company Case*, 141 U. S. 18). There is uncertainty, and, therefore, a need of a definite rule, whether the taxing power extends to the entire rolling stock at any time within the jurisdiction, and whether it is also taxable at the domicil of the owner by reason of such domicil. (See VI *h.*)

(c) Property in transit through the state is not taxable (*Kelley vs. Rhoads*, 188 U. S. 1); but property shipped from one state to another is taxable at the place of origin before actual continuous journey has commenced (*Coe vs. Errol*, 116 U. S., 517; 188 U. S., 82; 192 U. S., 21); and after the property has come to an indefinite rest for the purpose of further disposition (192 U. S., 500).

(d) Property employed at different times in different jurisdictions is taxable in either and all of these jurisdictions (22 Fed., 54), provided it is within each particular jurisdiction at the time of the assessment (198 U. S., 341). Some rule of uniformity is, therefore, desirable. (See VI, 1, *b.*)

IV.

INTANGIBLE PERSONAL PROPERTY.

The taxation of intangible property or securities involves the problem of double taxation not only in so far as the same credit may be taxed twice, but also in so far as the single taxation of a credit may be said to result in a double taxation of the tangible property which gives the credit its value. This may be illustrated by the taxation of a mortgage where the mortgaged land is also taxed at its full value, or by the taxation of corporate shares in the hands of the share holder where the corporation pays taxes on all its property or on all its capital stock.

Whether double taxation in this latter sense should or can be altogether avoided, is not a question upon which your committee is called to express an opinion.

A number of states (Virginia, Montana and Utah) by their constitutions provide against certain species of double taxation, notably taxation of corporations and their shareholders. This, however, applies as a rule only where the taxation of both would enure to the benefit of the same taxing jurisdiction. The provision of the law of Vermont exempting from taxation shares held by Vermont residents in foreign corporations in cases where the home jurisdiction of the corporation fully taxes its corporate stock, is exceptional and its abrogation is recommended by the Vermont Tax Commissioner (Report 1908, p. 66). Perhaps equally exceptional is the position of Missouri where shares held by Missouri residents in foreign corporations are declared non-taxable by the judicial construction of the general tax laws of the state. (*State vs. Lesser*, 141 S. W., 188, Nov. 14, 1911.)

It should be considered whether it is desirable to recommend a uniform law making the Vermont statute and the Missouri doctrine general throughout the states. (See VI, 1, i.)

6. The existing law of the situs of intangible personal property and the constitutional limitations regarding it should be stated separately for mortgages, shares of stock and other claims or credits or intangible rights.

(a) A mortgage may for taxing purposes be treated as being within the jurisdiction of the state where the land lies or within the jurisdiction of the residence of the holder. (*Savings Society vs. Multnomah County*, 169 U. S., 421; *Kirkland vs. Hotchkiss*, 100 U. S., 491.)

(b) A share of corporate stock may for taxing purposes probably be treated as being within the jurisdiction of the state in which the corporation has its domicile; for the shareholders of national banks are taxable by no other jurisdiction (R. St. Section 5219; 9 Wall, 353; 167 U. S., 461, 466). In Massachusetts, however, the taxability is doubtful (11 Allen, 268). In the case of corporations other than national banks, the share is also within the jurisdiction of the state in which the owner of the share resides. (*Kidd vs. Alabama*, 188 U. S., 73.)

(c) No other claim or credit, on the other hand, is taxable in the jurisdiction of the debtor's domicile merely by reason of such domicile, *i. e.*, where creditor, security, and the business of investing the funds are outside of the jurisdiction of that domicile. (State Tax on Foreign Held Bonds, 15 Wall, 300.)

This doctrine of non-taxability does not seem to apply to credit accounts with banks or other depositaries, these being regarded as almost equivalent to coin or cash at the place of deposit. (188 U. S., 205, 206.)

It is also doubtful whether it applies to inheritance taxes in any event. (183 U. S., 206.)

(d) Nor is a mere note (not a specialty) taxable where it happens to be physically located, merely by reason of such location (*Buck vs. Beach*, 206 U. S., 392), though it becomes taxable if the money is invested and managed through an agent residing in the taxing jurisdiction. (*Bristol vs. Washington Co.*, 177 U. S., 133; *Board of Assessors vs. Comptoir*, 191 U. S., 388; *Catlin vs. Hall*, 21 Vt., 152, 1849.)

However, the location of the security seems sufficient to confer jurisdiction in case of a bond (specialty; *dictum* by Justice Holmes, 263 U. S., 204), and for purposes of inheritance taxation. (206 U. S. 40; so also, until 1911, New York; 150 N. Y., 27.)

The decisions of the Supreme Court under *d*, do not seem entirely harmonious.

(e) So far as these rules imply prohibition, they are beyond state legislation and it would be superfluous to express these prohibitions in a uniform law.

The states are bound not only by the limitations of the Fourteenth Amendment, but also by Congressional legislation, which requires the taxation of shares of national banks to be at the place where the bank is located. (U. S. R. st. Section 5219; 9 Wall., 353; 167 U. S., 461, 466.) In view of the doubts regarding the taxability of patent rights, they should also be left out of consideration.

There are also provisions of state constitutions to be considered; thus California requires the taxation of mortgages held

on California land; and Delaware forbids the taxation of shares of domestic corporations owned by non-residents; the question then arises whether any uniform law is to be recommended which cannot be accepted by the legislature of every state. The point was raised in the Conference in connection with the first draft of a Uniform Partnership Act.

V.

CONFLICTS OF JURISDICTION.

The following are the principal possibilities of conflict:

1. *Mortgages*.—A mortgage may be taxed where the owner resides and where the mortgaged property lies; California, Maryland, Massachusetts and Oregon tax mortgages at the latter place, California in obedience to a constitutional requirement. The experience of California has, however, proved it to be futile to attempt to impose the general property tax with respect to mortgages upon the mortgagee at the situs of the property, since he will shift the burden of the tax to the mortgagor. (See Yale Review, VIII, 31-67.) It will, therefore, be difficult to persuade the state of the residence of the mortgagee to surrender its taxing power in favor of the state of the situs of the mortgaged property, unless it is willing to have the mortgage remain altogether untaxed. Under these circumstances it may be necessary to fix the situs of the mortgage at the residence of the holder. The state of the situs of the property would not thereby be prevented from levying the once-for-all specific tax payable upon the recording of the mortgage.

2. *Corporate Stock*.—A share of stock may be taxed where the owner resides and where the corporation has its domicile; it is (or was) taxed at the latter place in Vermont, Tennessee, Louisiana and Maryland, and in the case of national banks, and in a number of states in the case of the inheritance tax. The taxation of shares of foreign corporations, where the foreign corporation is taxed by its home jurisdiction on its entire property, is sometimes believed to present a case of double taxation of particular hardship, and this view seems to find support in the

laws of those states which do not tax shareholders of domestic corporations, where they tax the corporation on its property, and in the law of Vermont which does not tax shares of residents of Vermont in foreign corporations which are taxed in their home jurisdictions. It is, however, doubtful whether a shareholder has equitably a stronger claim to exemption than a bondholder, and it is not very likely that states will surrender their theoretical right to regard the shares of foreign corporations held by their residents or citizens as taxable property within the state. In the prevailing state of opinion, it is, perhaps, necessary to concede that shares of stock are property in the state where the shareholder resides. The correlative should follow that shares of stock held by residents of other states have no legal situs at the domicile of the corporation for purposes of taxation, an exception being admitted for shares of national banks, in accordance with the requirement of the act of Congress which makes such shares taxable only at the place where the bank is located.

In so far as a tax on the capital stock of a corporation is to be regarded as a tax on the property of the corporation (198 U. S., 341), the observations regarding situs of property apply to such a tax. In so far as it is to be regarded as a franchise or excise tax, it is beyond the province of this committee.

3. *Owner and Agent.*—In the case of any credit a conflict may arise between the jurisdiction of the residence of the beneficial owner and the jurisdiction of the residence of the managing agent who is in possession. The power probably belongs to both jurisdictions. (See *Bristol vs. Washington Co.*, 177 U. S., 133.) Where the managing agent is legally entitled to possession as trustee, executor, administrator or guardian, the security is usually taxed to him at his residence. (89 Md., 587; 90 Md. 1.) Where the person in possession is simply an agent without a right of possession as against the beneficiary, neither law nor practice are clear or uniform.

Express provisions with reference to this situation are rare; the most notable being Section 4, No. 13, of the Tax Law of New York, which exempts "moneys of a non-resident of this state, under the control or in the possession of his agent in this

state when transmitted to such agent for the purpose of investment or otherwise," an exemption already contained in the Revised Statutes of 1828. (1 R. St. 419, 3; see *Williams vs. Board of Supervisors*, 73 N. Y., 561.)

New York also taxes expressly securities wherever kept (Tax Law 2, No. 5), this being provided by an act of 1883,² passed after the Court of Appeals in 1882 had declared the choses in action of a resident held by an agent outside of the state to be non-taxable. (*People vs. Smith*, 88 N. Y., 576.) The judicial construction of general tax laws rather tends in a direction opposite to the New York legislation, for Missouri and Kansas (and New York itself, as just stated) hold that in the absence of express provision a general tax law is not presumed to cover securities owned by a resident which are kept *bona fide* outside of the state: *State vs. County Court*, 69 Mo. 454; *Leavitt vs. Blades*, 141 S. W., 893; *Wilcox vs. Ellis*, 14 Kan., 588, 1875; *Fisher vs. Commissioners*, 19 Ken., 414, 1877; and a non-resident's choses in action invested and managed by a resident agent have been held taxable in a number of cases; so in Vermont (*Catlin vs. Hall*, 21 Vt., 152, 1849), in Louisiana (see 191 U. S., 388), Minnesota (see 177 U. S., 133), and North Carolina (187 N. C., 122).

However, the decisions are not uniform; thus, contrary to the decisions in Missouri and Kansas, Wisconsin holds mortgages held by a resident of Wisconsin in another state, and managed by an agent in the other state, to be taxable in Wisconsin (*Street vs. Gaylord*, 73 Wis., 316, 1889), while, contrary to the decisions in Vermont, North Carolina, etc., Ohio holds that a mortgage on Ohio property, and managed by an Ohio agent is not taxable if owned by a non-resident (*Myers vs. Seeberger*, 45 Oh. St., 232, 1887.)

It does not appear that the courts of a state which hold foreign investment of residents to be taxable, necessarily exempt home investments of non-residents, or, vice versa, hold home investments of non-residents taxable because they exempt foreign investments of residents.

² Laws, 1863, 392, now Tax Law 2; see 119 N. Y., 137, 139.

4. *Owner's Residence and Place of Investment.*—In all cases of securities the conflict seems reducible to a question between the domicile of the owner and the place of the investment; the latter jurisdiction seems to be supported by the legal theory of the general property tax that the tax is a return for the protection accorded to the property, the former by the principle *mobilia sequuntur personam*,^{*} and by the fact of undoubted constitutional power, while an ordinary credit is taxable neither by reason of the residence of the debtor, nor by reason of mere physical possession of an agent within the taxing jurisdiction. The preference of the jurisdiction of the residence of the owner is also in accord with the legislation of New York.

5. *Inheritance Tax.*—Inheritance tax jurisdiction is claimed and exercised on a much wider basis than property tax jurisdiction, and no claim has as yet been declared unconstitutional by the Supreme Court.

Inheritance tax jurisdiction has been disclaimed with regard to foreign real estate of a deceased resident (137 N. Y., 77; 210 Ill., 380), with regard to claims of a deceased non-resident against a resident, where the evidence is not within the state (150 N. Y., 1), and with regard to certificates found within the state of stock in a foreign corporation owned by a deceased non-resident.

Inheritance tax jurisdiction has been claimed with regard to tangible personal property of a deceased resident, outside of the state (137 N. Y., 77, contrary to the opinion of the judge writing the opinion) with regard to corporate stock by reason of their physical location (150 N. Y., 27) or their registration with a domestic corporation (Michigan, New Hampshire, Vermont)⁴ and with regard to deposit credits by reason of the residence of the depository. (*Blackstone vs. Miller*, 188 U. S., 189.)

The wording of inheritance tax laws is so vague, varying, and changing that it is not worth while to undertake a close analysis or tabulation of the provisions regarding situs.

^{*} See also Report of Vermont Tax Commission, 1908, p. 66: A resident of Vermont owns his tax paying allegiance here and should pay taxes here according to his ability.

⁴ See letters printed State and Local Taxation, 1908, p. 100.

Notice should be taken, however, of these provisions and judicial decisions which recognize the evil of double taxation and seek to avoid it:

(a) By judicial decision, where a corporation, the property of which extends through several states, is incorporated in each of the states with its entire capital stock, the value of the stock is for purposes of inheritance taxation apportioned to each state according to the proportion of the value of the corporation's property within it. (186 N. Y., 220; 196 Mass., 533.)

The rule is now recognized in Massachusetts by statute. (Laws, 1907, c. 563, 2.)

(b) Massachusetts credits the succession tax paid upon foreign tangible property to the foreign jurisdiction; and exempts the property of a non-resident decedent within her jurisdiction, if this jurisdiction grants to Massachusetts like reciprocal exemption. West Virginia makes an exemption similar to the latter, Vermont one similar to the former.

(c) In 1911 New York amended her transfer tax law so as to tax only the tangible property within the state and any intangible property of a resident decedent, and the tangible property within the state of a non-resident decedent.

Thus New York no longer taxes non-residents on shares of New York corporations, or on securities kept on deposit in New York, nor residents of New York on land or chattels outside of the state.

The New York law follows the recommendation of the National Tax Association of 1910.

VI.

TENTATIVE DRAFT OF UNIFORM TAX SITUS PROVISIONS.

SECTION 1. *Be It Enacted, etc.:* In all cases in which the law of this state requires property to be taxed to the owner thereof, or in which a tax is imposed by reason of the transfer of property by will, appointment, death, intestacy or by gift, or in contemplation of the death of the owner, the term property shall be deemed to include:

(a) Real estate situated in this state.

(b) Tangible personal property situated in this state except that taxes assessed upon tangible personal property by another state by reason of prior location in that state at an earlier period of the same calendar year, if paid in that state, shall be credited upon the taxes assessed in this state for the same year.

(c) Bonds, notes, mortgages, moneys, credits, shares of stock and other securities and intangible rights (not being real estate) owned by residents of this state; but this shall not be construed as requiring the taxation of such securities or rights to residents of the state in cases where they are not at present taxable.

(d) Shares of stock of national banks doing business within this state so far as they are at present taxable.

(e) For the purpose only of assessing taxes on successions of decedents or transfers by gift or in contemplation of death, as aforesaid: Shares of stock of domestic corporations owned by non-residents of the state; but if such corporation be a railroad or street railway company or a telegraph or telephone company incorporated under the laws of this state and also of some other state or country, so much only of each share as is proportioned to the part of the company's line lying within this state shall be regarded as property of such non-resident subject to the tax. If such shares of stock of domestic corporations owned by non-residents are subject to a like succession or transfer tax with that imposed in this state, by the laws of the state or country of his residence, and such tax be actually paid or secured in accordance with the law of such state or country, such shares shall be subject only to such portion of the tax imposed in this state as may be in excess of the tax imposed by the law of the state or country of residence: *Provided*, that a like exemption is made by the law of such state or country in favor of the property of decedents resident in this state.*

(f) Ships employed exclusively in navigating the internal waters of this state.

(g) Ships not within the exclusive taxing jurisdiction of another state, owned by residents of this state.

* This provision is taken in substance from law of Massachusetts.

(h) Such proportion of the value of the rolling stock of any company employed on railroads operated within this state as the mileage within this state upon which such rolling stock is employed bears to the entire mileage upon which it is employed.

(i) Securities, certificates or other evidence of claim or interest belonging to a resident of this state which represent investments or deposits made outside of the state shall not be taxable if legally subject in the jurisdiction of the investment or deposit to a tax of like character and amount to that imposed in this state, and if such tax be actually paid or secured to be paid in accordance with law in such other jurisdiction; if legally subject to the other jurisdiction to a tax of like character but of less amount than that imposed in this state and such tax be actually paid or secured as aforesaid, such securities shall be taxable in this state to the extent of the difference between the tax thus actually paid or secured and the amount for which security would otherwise be liable in this state.*

SEC. 2. A corporation organized under the laws of this state shall be deemed to be a resident of this state.

SEC. 3. A person legally entitled to possession of property possession as trustee, guardian, executor or administrator shall be deemed to be the owner of the property.

ERNST FREUND, *Chairman*,
STEPHEN H. ALLEN,
JOHN R. HARDIN,
EDWARD LEES,
JOHN H. VOORHEES.

* It may be desirable to qualify this by a reciprocity provision.

REPORT

OF THE

SPECIAL COMMITTEE TO COOPERATE WITH THE AMERICAN
INSTITUTE OF CRIMINAL LAW AND CRIMINOLOGY.

Hon. William H. Staake, Philadelphia, Pa.:

DEAR JUDGE STAAKE: Reporting to you, as Chairman of the Committee on Cooperation with the American Institute of Criminal Law and Criminology, I beg to say that nothing has occurred to call for special action or deliberation during the past year.

The only fact worth recording at this time is that the Legislative Bureau of New York City has been in cooperation with a Sub-committee on Criminal Procedure of the Institute of Criminal Law and Criminology, for the purpose of preparing a draft of a uniform law on some proposed part of the law of criminal procedure. As soon as any definite progress is made this committee can report further.

Sincerely,

JOHN H. WIGMORE.

PROCEEDINGS
OF THE
FOURTH ANNUAL MEETING
OF THE
AMERICAN INSTITUTE OF CRIMINAL LAW
AND CRIMINOLOGY

HELD AT
MILWAUKEE, WISCONSIN

August 29, 30, 31, 1912.

OFFICERS OF THE INSTITUTE

1911-1912.*

President.

JOHN B. WINSLOW, Madison, Wis., Chief Justice of the Supreme Court.

Vice-Presidents.

MORTON PRINCE, Boston, Mass., former President of the American Neurological Society and the American Psychopathological Society, and Professor of Neurology in Tufts Medical College.

CHARLES A. DECOURCY, Lawrence, Mass., Justice of the Supreme Court.*

GEORGE W. KIRCHWEY, New York, N. Y., Professor of Law in Columbia University, Director of the New York Prison Association, and President of the New York Society of the Institute.

JAMES W. GARNER, Urbana, Ill., Professor of Political Science in the State University.

HARVEY C. CARBAUGH, Chicago, Ill., Colonel and Judge-Advocate, U. S. Army, Western Division.

Treasurer.

BRONSON WINTHROP, New York, N. Y., of the New York Bar.

* For a list of the incoming officers, see p. 1222 in this volume.

Secretary.

EUGENE A. GILMORE, Madison, Wis., Professor of Law in the University of Wisconsin.

Executive Board.

JOHN H. WIGMORE, Chicago, Ill., Chairman, Professor of Law in the Northwestern University, and former President of the Institute, *ex-officio*.

WM. O. HART, New Orleans, La., Commissioner on Uniform State Laws.

WM. E. HIGGINS, Lawrence, Kan., Professor of Law in the University of Kansas.

WM. A. WHITE, Washington, D. C., Superintendent of the Government Hospital for the Insane.

WM. E. MIKELL, Philadelphia, Pa., Professor of Law in the University of Pennsylvania.

EUGENE SMITH, New York, N. Y., President of the New York Prison Association.

FREDERIC B. CROSSLEY, Chicago, Ill., Librarian of the Gary Law Library of Northwestern University, and Managing Director of the Journal of the Institute, *ex-officio*.

ROBERT H. GAULT, Evanston, Ill., Assistant Professor of Psychology in the Northwestern University, and acting Managing Editor of the Journal of the Institute, *ex-officio*.

EDWIN R. KEEDY, Chicago, Ill., Professor of Law in the Northwestern University.

NATHAN WILLIAM MACCHESNEY, Chicago, Ill., Commissioner on Uniform State Laws, Judge-Advocate-General of Illinois, and former President of the Institute, *ex-officio*.

E. RAY STEVENS, Madison, Wis., Judge of the Circuit Court.

ALEXANDER H. REID, Wausau, Wis., Judge of the Circuit Court.

NEELE B. NEELAN, Milwaukee, Wis., Judge of the Municipal Court.

EDWARD A. ROSS, Madison, Wis., Professor of Sociology in the University of Wisconsin.

GILBERT E. SEAMAN, Milwaukee, Wis., Councillor of the American Medical Association, and Regent of the University of Wisconsin.

HENRY M. BATES, Ann Arbor, Mich., Dean of the Law School of the University of Michigan.

The fourth annual meeting of the Institute was held at Milwaukee, Wis., August 29-31, 1912. The headquarters of the Institute were in the Hotel Pfister and the meetings were held in Walker Hall Auditorium, Fifth and Cedar streets, and in the

Court Room of Judge W. J. Turner, Masonic Temple, Jefferson and Oneida streets. The meetings of the Institute were held jointly with those of the Wisconsin Branch of the American Institute of Criminal Law and Criminology.

FIRST SESSION.

The meeting was called to order at 2 o'clock P. M. on Thursday, August 29, by the President, John B. Winslow of Wisconsin.

The President introduced Governor F. E. McGovern, of Wisconsin, who in welcoming the Institute to the State of Wisconsin, spoke in part as follows:

"One of the hopeful signs of the times is the genuine enthusiasm for humanity, especially for the poor and unfortunate. The selfish part of you is rapidly disappearing, and social obligations are coming to be better recognized. At no time were men less inclined to ask 'Am I my brother's keeper?' As population has increased and great cities have grown up, individual prosperity and happiness have come more and more to depend upon social security and protection; there is also more real willingness to help those who need assistance than ever before. We have our social settlements, our juvenile courts, our industrial training schools, our university extensions, probation of first offenders, parole of convicts, and a large and constantly increasing number and variety of hospitals, asylums and institutes. In a word, the spirit of humanitarianism is in the air, and it is not strange, therefore, that a new school of penology has arisen to study crime, not from the standard of the protection of society merely, but for the reformation and well-being of convicts as well.

"To give effect to these tendencies I understand this Institute was founded and it is gratifying, at this its fourth annual session, to find the interest that created it still increasing. . . .

"We in Wisconsin realize that we have much to learn, much to correct, before we can afford to challenge investigation of experts.

"So far as the apprehension, the trial and the sentencing of criminals are concerned, however, I feel that we do very well. There may be room for improvement even here, as there always is in human affairs, but I can think of nothing that should be revolutionized.

"It is to be regretted that the same cannot be said about our treatment of convicts. Of course no one will claim that there is brutality practised at Waupun. The sanitation of the buildings is good, the food is nourishing, the educational facilities are ample and excellent discipline is maintained. In a word, everything that pertains to the physical condition of prisoners is quite satisfactory. Not so, however, I fear, of economic conditions. The fundamental requirement of permanent reformation is training and education, such as will enable the convict to earn an honest living when he leaves prison. Our penal and reformatory institutions are filled with ne'er-dowells who are there largely because they have been unable to meet the competition of normal individuals in the ordinary walks of life. Present training and discipline should have for its prime object putting these people on their feet. It should supply them not only with a motive and a disposition to obey the law, but it should give them confidence and ability to hold their own in the struggle for existence as it is carried on in this workaday world of ours. . . .

"Men go out of prison here with no trade or calling whatever, by which they may earn a living. Tending a knitting machine is girl's work and however proficient in it able-bodied men may become, in the course of their life in prison, they will never resort to it after the expiration of their terms; and this it seems to me is a very serious defect.

"The prison, moreover, should be self-supporting. It appears to me that there is no reason in the world why the law-abiding citizens of Wisconsin who have been injured by the infraction of their laws, should in addition have imposed upon them the burden of sustaining criminals after they have been caught and sentenced. The very least that should be expected of a convict is that he should be self-supporting. Indeed he should not only earn enough to keep himself, but should be made to work hard enough and, what is more important, at employments productive enough, so that the management of the prison may be able to realize a considerable profit each year. Now, a portion of this profit may properly go to the state, but another portion, and a considerable one, should go to the prisoners themselves, to support their families; and when their sentences have expired, to enable them to go wherever they please, wherever they think they can make a new start in life. I can well understand that when the prison gates swing open a few hundred dollars looks mighty good to the recent convict.

"Now under this prison contract labor plan, as we have it, the state receives 65 cents a day for the labor of the prisoners. Under

our present arrangements with the contractor, a knitting company, the public furnishes for this sum, buildings, light, heat and power in addition to the labor of the prisoners. Subtracting these items of rent, light, heat and power, there remains about 40 cents a day as compensation for the work of the convicts, many of whom at proper employments could earn all the way from \$1.50 to \$3 a day.

"It is not strange, therefore, that at the last session of the legislature it was found necessary to appropriate \$50,000 a year for the maintenance of this state institution.

"It seems to me it requires no elaboration of argument to show that this plan is wasteful and unjust to the tax payers of the state, unfair to free labor and outside manufacturers, and discouraging to the prisoners. There is indeed very little that can be said in its favor, except that it provides steady employment for the inmates, and this is one of the problems that is now being studied by the Wisconsin Board of Public Affairs; and when the inquiry is concluded I trust that some action will be taken by our legislature respecting it."

At the conclusion of the address of Governor McGovern, the President introduced Mr. Clifton Williams of the Law Department of the City of Milwaukee, who in the absence of the Mayor, and as his representative, welcomed the Institute to the city.

Mr. W. O. Hart, of Louisiana, Chairman of the Committee on Co-operation with Other Organizations, announced that he had sent invitations to the governors of all the states and to various learned societies to appoint delegates to attend this meeting, and that in response to the invitations delegates had been appointed. He submitted a list of delegates, and moved that they be given the privileges of the meeting, which motion was carried.

The President then read his annual address, which is as follows:

THE PRESIDENT'S ADDRESS.

Members of the Institute: Our fourth annual session opens under favorable auspices. The Institute may be said to have passed the experimental stage and demonstrated its right to live; its place among the agencies which are making for the betterment of the race is now not only firmly established but widely recognized; its activities have gone on during the past year with gratifying success; progress has been made, but the field of labor

is yet very large; we are met to review the past and take counsel for the future.

It is not my purpose in this address to review the work performed by the various committees during the year. The reports of the committees will speak for themselves when presented and read.

One general observation may well be made here, however; the Institute greatly needs funds for its work over and above the money received from annual dues. It can never accomplish what it ought and desires to do until it has something in the nature of an endowment. Much research work must necessarily be done if the problems before it are to be rightly solved. The members are all busy men; generally speaking, each man is fully occupied with his own work, and can give to the work of the Association but a few brief hours snatched from his regular labors. Such men can spend no time in exhaustive research, nor should they be expected to do so. Still less should they be expected to expend their own funds in employing others to do research work. The result is that necessary research work is not done and the Institute is not accomplishing the results which it might accomplish if endowed with funds. The question whether an endowment for research work can be obtained is a question fully as important as any which we have before us, and I commend it to the earnest consideration of every member of the Institute.

To say that we live in a wonderful time is trite, but true as it is trite. The nineteenth century was called the wonderful century. The twentieth century bids fair to eclipse its predecessor in wonders, and the first decade only has yet passed. "The moving finger writes, and having writ moves on." Thus wrote the Persian philosopher poet centuries ago. It was true then, and true now.

The finger of human progress is always writing and always moving on. It never repeats and it never obliterates. What is written is written, whether it be for good or ill.

In this second decade of the twentieth century it is writing many things of surpassing interest, but the three words which it writes and which overshadow all others are the words "Education," "Democracy," and "Service."

I use the word education here in no contracted sense. I mean to cover by it all knowledge, whether it be purely philosophical and abstract, on the one hand, or purely utilitarian on the other; whether gained in the classroom, or in the solitude of the closet; in the laboratory, in the factory, or in the open under Nature's arching sky.

But a few days since it was reported in the daily press that more than 11,000 persons had received instruction in the various departments of the University of Wisconsin during the current year. It seems but a very short time since the number of students at this university was not more than a paltry two or three hundred. The schoolmaster with his primer was said to be abroad a century ago, but where there was one schoolmaster abroad then there are a hundred now. The extension department of the university just referred to, through its correspondence school and its travelling professors, brings the university to the door of every Wisconsin citizen in a way that would have seemed incredible a quarter of a century ago. Not only do the people come to the university by thousands where they formerly came by tens, but the university now goes to thousands who cannot come to it.

And all this while the correspondence school and extension department are still in swaddling clothes. None can safely predict the future of those schools. If the experience of the past be any fair criterion for the future there can be little doubt that before many years the extension department will number its students by thousands where it now numbers them by hundreds. Indeed it would be little short of folly to attempt to set any boundaries to its field of usefulness. This condition is not by any means peculiar to Wisconsin, or to the United States. In practically every civilized state the story is the same, though differing in degree. It is very certain that there will be no retrograde movement. The masses are to be educated, perhaps not deeply nor exhaustively, nor always wisely, but for the first time in the history of the world the great mass of the people are to receive some sort of education.

No longer will the poet have occasion to write of the rural clod, "Who never had a dozen thoughts in all his life, nor changed their course, but conned them o'er from morn till night, from youth to hoary age." Such people will not exist, or, if they do, will be so rare as to be negligible.

I am not now concerned with the quality of the education which is being given, or with the question whether the education is in all cases admirable, or even desirable, but I am simply noting the great fact that the time is very near at hand when practically every citizen, male or female, regardless of station, will not only be able to read and write, but will have such general knowledge on subjects connected with his business or the general welfare, or both, that he will deem himself able to discuss and take an intelligent part in the social and political movements of the time.

Coincident with this wonderful increase of education among the masses of the people is coming also a wave of Democracy. Indeed it is impossible to see how it could be otherwise.

The man who never thinks is the contented man; he is the man who does not wish for any share in public affairs, but is willing to let the political boss manage them as he sees fit. He is content that others should govern. The man who thinks, even though he thinks crudely, is apt to be discontented; he sees the defects and abuses in social and political fields, and he clamors for reforms and is ready to do his own share in bringing about those reforms. He is the true democrat. He proposes to do part of the governing. That which promotes individual thinking inevitably promotes democracy; education, even of the most defective character, promotes some sort of thinking, hence it seems that the two must go hand in hand, and that the great democratic movement of the day is linked inseparably with the great educational advance.

In speaking of the democratic movement, I refer not to America alone, but to the entire civilized world. Take the world's map and put your finger where you will, and you will find some phase of it. In Great Britain it takes the form of nullifying the powers of the House of Lords and curbing privi-

lege of birth; in France and Germany it appears in the garb of socialism, and in other countries in various movements all directed with greater or less wisdom to the wiping out of one form or another of privilege. Everywhere there is political unrest, everywhere there is clamor for more direct and complete control of the government by the people. In our own country the democratic drift is perhaps more marked than anywhere else. We have long thought that we in fact had a democracy, or, perhaps more exactly, a group of democracies united for self-protection and mutual benefit here on this side of the Atlantic. As a matter of fact there is much in our state and national governments that is not strictly democratic. But unless every sign fails we shall have democracies here before many years such as the world has never seen on any such scale before; at least we shall experiment with them.

The democracies which we have had and still have are representative democracies founded on the principle of preserving to the greatest possible extent the rights of the individual. The democracies which are coming, unless all signs fail, are democracies of direct popular action in which individual rights and privileges must give way in very many and very important particulars to regulations and restrictions deemed necessary for the benefit of the great mass of the people.

The democracies of the present enact their laws by representative bodies chosen from the electorate, and delegate many governmental powers to officials or bodies of officials removed by many steps from the direct control of the people. The democracies which are coming propose to place both legislative and executive power directly in the hands of the people, or under their immediate control, so far as that may be possible. The democracies of the past have limited the electorate to male citizens. The democracies which are coming will without doubt welcome to the electorate female citizens on equal terms, not as privilege, but as a measure of eternal justice and right.

The direct primary, the initiative and referendum, the recall, the equal suffrage movement, the election of United States senators by popular vote, the presidential preference primary—all

these movements, whether yet adopted or only agitated, are simply manifestations of the overwhelming democratic spirit of the time. Some of them may prove to be mere experiments which will be abandoned after trial, but some either *have* come or *will* come to stay, and, if I mistake not, other changes which will tend to bring the administration of governmental affairs more quickly and completely within the control of the electorate will, at no distant day, be added to them, and ultimately be incorporated in our state and national governments.

I am not now discussing the wisdom of any of the innovations which are coming, or are already here; that would make too long a story for this address. It is sufficient for my present purpose to say that there seems no doubt that they are coming, that they will be tried out, that some of them will be permanent, that they will work important changes in our social as well as our governmental life; changes which every citizen ought to consider seriously.

The most serious thought which presents itself to my mind, as I view these movements for more direct and speedy control by the people of all governmental affairs, is the thought of the increased responsibility of every citizen.

It has been truly said that the only foundation upon which a democracy can rest is the intelligence and virtue of the people. If it be true of a representative democracy, where legislative and other governmental activities are carried on by representatives with only an occasional appeal to the people, how much more true must it be where the people themselves by initiative, referendum, recall, or other kindred means, keep their own hands directly upon governmental processes.

If the people are to rule in person and not by representatives, a proposition which, as applied to a great and populous state, is difficult but perhaps not impossible, the people must be fit to rule; to be fit to rule, they must be not only educated, but the great mass of them must be honest and law abiding.

A pure democracy cannot exist if its electorate be either ignorant or corrupt. If the fountain head be poisoned, the waters of the stream cannot be sweet.

The question whether the American electorate is in all respects fit to assume the duties and responsibilities which must result from the new democracy which is at our doors is by no means free from doubt. We are much accustomed to boast of the intelligence and patriotism of our people, but boasting will be of little account here.

The question is, Are present conditions making for a higher standard of citizenship? Are we sure that we shall have an electorate of a grade which can safely be trusted with the power which the coming democracy proposes to place in its hands?

The question is by no means easy to answer. The most casual and superficial observation shows that great changes are going on in the character of our population, and the conditions which surround the life of the people. From a nation largely composed of rural dwellers, we are rapidly becoming a nation of urban dwellers. Regardless of the difficulties resulting from a vast influx of immigrants whose difference of language, race, and temperament makes assimilation difficult, it is very certain that we have some perplexing problems ahead of us.

The great city has come and come to stay, and it has brought its great problems with it—problems which will call loudly and more loudly for solution as the years go by. They are the problems of the slum, the tenement house, the social evil, of child labor, of congested population and unsanitary living, of alluring vice in all its phases, and many others, all of which have greater or less bearing upon the physical and mental manhood and womanhood of the race. The sturdy farmer, who is daily bathing in health and strength under the open sky, surrounded by the inspiration of Nature's wonders, is giving way to the city dweller, the operative in the great shop, and the thousand and one stunted and narrow-chested workers in the city streets who just manage to keep body and soul together, and go to bed at night hopeless and wearied, or try to drive away all thought of the morrow by forced and shameful merriment. The picture is not overdrawn, and it is not encouraging to one who is looking for a higher type of citizenship.

I do not say that the moral fiber of the nation is weakening. I see churches, schools and philanthropic societies of various kinds working as never before, but I see also the need of such work as never before. The political condition of most, if not all, of our great cities is distressing already under what is only a representative democracy; what will it be if we are to have direct democracies and immediate control by the electorate? What will it be when the cleavage between great wealth and abject poverty becomes more pronounced? What will it be if class hatred grows more acute? What will it be if the urban nurseries of crime go on unchecked and the professed criminal classes increase in the future as they have in the past? Who can answer? Certainly not I. It is not pleasant to speak of these things—indeed they are not much spoken of in our best society. People go to their receptions, their teas and their banquets, and talk of the weather, of the last opera, or the latest book. It is far more comfortable to ignore such disagreeable questions as those I have suggested. Yet there will come a time when they must be considered, there will come a time when the wonder will be that anyone could think of ignoring them. It is far better to consider them now and to devise ways and means of correcting them than to let them go on unchecked until they threaten the very existence of all law and order.

So far I have spoken only of the problems which are peculiar to the great city, but there are others which are present not only in the city but in the village and in the country as well, and they also threaten to affect the quality and strength of citizenship.

If I be not greatly mistaken, the great increase of wealth and luxury which has come from the development of our wonderful natural resources has resulted in a perceptible lowering of ideals. Our forefathers struggled for very existence in the face of tremendous difficulties; they subdued forests, endured the privations of the frontier, and in the midst of toil and privation laid the foundations of the state that was to be. Amid such labors and privations it was natural that they should develop the sterner elements of character, the elements of fortitude, both physical

and mental, of self-control, steadfastness and probity of purpose. We who have entered into their labors and are reaping the results of their self-denial, either by way of making gain from vast business enterprises or dwelling in an atmosphere of ease or luxury which they made possible, are quite apt to have our thoughts directed to the material things—the things which make life pleasant and enjoyable, to the neglect of the sterner virtues. Surely I am not wrong when I say that this tendency is noticeable on every hand, nor am I wrong when I say that in it there is great danger of a loss in sturdiness of character.

Now, we cannot make any appreciable change in the material conditions of the age in which we live. We cannot go back to the days of our fathers if we would. "The moving finger writes, and having writ moves on"—not backward. The great city will become greater, the opportunities for the acquisition of wealth will not decrease but rather increase, the use of the conveniences and luxuries which modern life places within our reach will not cease, the temptation to live a life of ease and pleasure, regardless of the cry of the unfortunate and afflicted, will be just as strong. How are all these weakening tendencies to be met and overcome? How are we to make sure of that high quality of citizenship which will be necessary in such a democracy as we shall have?

This question is probably not capable of an authoritative answer in a single word, nor shall I attempt to give one, but the word which comes nearest to it is the third word which the moving finger of progress is today writing, namely, the word "Service."

For centuries individualism has been the keynote of civilization, especially in this land which has boasted so loudly of its freedom and equality. We have gloried in the idea that every man was the master of his own destiny and must fight his battle alone; we have seen the struggle for wealth and social distinction—nay even for the necessities of life—become fiercer and fiercer, and we have condoned the ruthless cruelty and selfishness of it all on the ground that all citizens have equal opportunities and that the triumph of the strong and the trampling down of the weak is but the working of nature's immutable and righteous law.

But the consciousness that man cannot live for himself alone has come at last; the public conscience is awake; we now for the first time realize faintly and imperfectly the marvelous significance of the parable of the good Samaritan. We are learning who are our neighbors, and we are realizing that an injury to "one of the least of these" is an injury to society as a whole.

The trumpet call of service to fellowmen is sounding today as it never has sounded before since the days when the great Master trod the shores of Galilee. Thousands of men and women with the spirit of Christ in their hearts are hearing the call—men and women who could if they chose be clothed in purple and fine linen, and fare sumptuously every day. But they have chosen the better part. Comparatively speaking their work has but just begun and yet there are results to show. The slum is yielding to the settlement. The haunts of vice in the great cities are still practically untouched, but there is hand-writing on the wall, and the waves of an awakened public sentiment are rising with ominous strength. Everywhere earnest men and women are banding together and devising ways and means, either by way of legislation or agitation, or both, by which moral standards shall be raised, the frightful injustice of modern life in the great cities shall be corrected, disease vanquished, vice made hateful and life made to hold forth its promise of hope and joy to the most unfortunate.

So significant has the great social service movement become that a political party, appealing to the electorate of the nation for support, has recently been formed with a platform which pledges the party to work unceasingly, both in state and nation, for social and industrial justice along numerous lines which it names, and along most of which work has already been begun. Strangely enough, the platform omits all reference to that important phase of social justice represented by this Institute, namely, the improvement of criminal law and procedure, so that certain and speedy justice shall be attained.

Whether such a political party was necessary or not is doubtless a question which is open to serious debate; very much of the work which it approves and incorporates in its platform is

already under way and supported by citizens of all parties, but the mere fact that such a platform has been made and a new party founded upon it is very significant as showing the changed condition of the public mind. Fifty years ago the attempt to form a party upon such a platform would have been regarded only as the chimerical dream of a political visionary. Now it is received seriously and with a considerable measure of public approval, so far, at least, as its social service programme is concerned.

The present movement for prompt scientific and, at the same time, humane treatment of the criminal is unquestionably part and parcel of the great awakening of the public conscience. It takes its place with the other contemporary movements for better citizenship with entire confidence in its right to that position.

If there be any questions of greater importance to society than the questions which cluster around the criminal law and its due enforcement, I know not what they are.

They are questions which go to the very foundation of all social order. If our criminal laws are not just and scientifically correct in principle; if their administration be, as President Taft said not long ago, a disgrace to our civilization; if we are year by year building up in our midst an ever increasing criminal and degenerate class whose members are predestined to crime from their very birth, it is surely time that we considered the subject seriously, if not prayerfully.

It must be admitted, I think, that we have been singularly slow in appreciating the defects in our criminal jurisprudence, indeed we have been accustomed to regard ourselves as possessing well-nigh perfect methods of dealing with and punishing crime. We have gloried in our Anglo-Saxon heritage of the common law, our trial by jury, our constitutional guarantees against medieval abuses, and we have rested secure in the fond belief that there could be no improvement, and that other nations possessing no such ideal systems were justly the subjects of our pity.

It is not pleasant to be awakened from a delightful dream, but if the dream be a false dream of security when danger impends, the awakening cannot come too soon.

That our dream of practical perfection in dealing with crime was in large measure ill-founded cannot well be denied; how the defects in the system may be remedied is the important question.

The ideal treatment of the supposed criminal must be prompt, just, scientific, and humane; it must result in the protection of society from violence and the gradual decrease of crime.

The criminal code which will accomplish this desired result should in my judgment contain certain essential features which may be stated in general terms as follows:

I. It should be simple and easily understood not only in its procedure, but in its definitions and statements of substantive criminal law.

II. It should provide for the prosecution of all crimes by information; if indictment by grand jury be preserved at all its use should be optional with the trial court.

III. It should give the trial court plenary power to amend indictments, informations and all other proceedings, at any time during the trial or after verdict in furtherance of justice, care being taken to preserve the defendant's right to know the nature of the charge made against him, and to have the amplest opportunity to make his defense.

IV. Distinction should be made between confirmed criminals and those of whose reform there is hope, and the means given to the trial court to ascertain in which class the convicted person belongs.

V. Confirmed criminals, of whose reform there is no hope, should be effectually and permanently segregated from society, so that they may neither continue the race of criminals nor instruct others in their nefarious business.

VI. As to first offenders and persons of whose reform there is substantial hope, the courts should have power to suspend sentence indefinitely and place such persons under the supervision of probation officers, or commit them to reformatories especially designed for such offenders, where there is opportunity for discharge upon parole.

VII. The trial court should have power to suspend sentence after conviction in the case of youthful first offenders, and cause an investigation to be made by medical and psychological experts, to the end that if it appear that the criminal act was not committed with deliberate criminal intent, but was rather the result of unfortunate environment, or misfortune, or temporary lack of mental balance, the court may provide for disciplinary, therapeutic or reformatory treatment, instead of imprisonment.

VIII. Juvenile courts should be provided for child offenders, endowed with the broadest powers, enabling them to treat the erring child sympathetically and mercifully, and apply the proper reformatory or disciplinary measures rather than imprisonment in jails or bridewells with the harlot and the drunkard.

IX. Power should be vested in the court or in some officer or board, by segregation or some other efficient means, to prevent the imbecile and the degenerate criminal from returning to society or propagating his kind.

X. I think (except as to capital offenses) the court should have power to impose an indeterminate sentence, leaving the question of length of term to a board acting on accurate knowledge of the criminal's history, behavior and apparent progress toward reformation.

XI. Whether the principle of the indeterminate sentence be adopted or not, power should be vested in some responsible and discreet board in cases where reform is possible to parole prisoners under proper supervision, and perhaps there should be provision made for the granting of a certificate of rehabilitation of character by the trial court after the lapse of time sufficient to make sure that reform is complete.

XII. There should be no absolute right of appeal on the part of the defendant, except, possibly, in capital cases; in other cases an appeal should only be had when the same is allowed by the trial judge, or by a judge of the Appellate Court.

XIII. No judgment of conviction should be set aside for error unless it appear affirmatively to the Appellate Court that the error caused a miscarriage of justice, or seriously affected the defendant's substantial rights.

XIV. The state should have a right to obtain a review in the Appellate Court of rulings resulting in the discharge of the accused because of supposed errors or defects in pleading or procedure.

XV. Power may well be given to the Appellate Court, in cases where by inadvertence the proof of some material fact has been omitted in the trial court, to receive the proof, ascertain the fact and enter the proper judgment rather than to reserve the judgment, and order a new trial in the trial court.

I do not assume by any means that the foregoing propositions cover all the requisites of an ideal criminal code, nor all the questions which may properly be considered by this Association, but I simply present them as covering the more obviously important general propositions for which the Institute is working.

From them it is not difficult to state the general nature of the service which the Institute hopes to render to the social fabric; it hopes to make the administration of the law simple, the results certain, prompt and just, and mere useless delays impossible, remembering at the same time that speed is only desirable when it is accompanied by justice; it hopes to permanently remove from contact with society the confirmed criminal and the moral degenerate, and ultimately to eliminate the criminal class; it hopes to abolish the practical seminaries of crime now existing in the penal institutions where all classes of criminals are indiscriminately massed together; it hopes by the wise use of the parole and probation system to make reform of first offenders the rule and not the exception; it hopes to apply scientific methods to abnormal offenders and to provide for such offenders such therapeutic, disciplinary, or segregative treatment as expert advice shall indicate as the best means of restoring them to a normal condition; it hopes to surround the juvenile criminal with the sympathetic care of a foster parent and rescue him from a career of crime rather than to consign him to the company of abandoned criminals where an advanced education in crime is inevitable.

Any organization which can efficiently aid in producing these results will be entitled to the gratitude of every citizen; it

will render a service to society the importance of which can hardly be overestimated.

At the conclusion of the President's address, Judge Charles A. De Courcy, of Massachusetts, having been called temporarily to the Chair, it was upon motion of Nathan Wm. McChesney, of Illinois, resolved that the address of the President be printed and issued by the Institute as a special bulletin.

The President then introduced Mr. Frank L. Randall, General Superintendent of the State Reformatory of Minnesota who delivered the annual address.

THE ANNUAL ADDRESS.

PROCEEDINGS FOLLOWING CONVICTION.

The observations which I am privileged to submit to this annual meeting of the American Institute of Criminal Law and Criminology, and to the Wisconsin branch of that organization, will be directed mainly to facts and conditions regarding the product of the criminal courts, and their proper management, and disposition. Whatever information may have been gathered has been the result of experience in the practical field, and the writer undertakes to avoid the statement of alleged facts not probably established, or the expression of opinions not properly fortified. The official experience referred to has been confined to one of the Northwestern States, but the evidence indicates that, in large measure, the conditions there existing, are general over a considerable scope of territory, and not wholly unknown in any part of the union.

Where civilization exists there are rules of action, and where there are regulations and men, some of the men will sometimes violate some of the regulations. Therefore, there are jails, courts and prisons, and now probation and parole officers. All these should be adapted to dealing with the men who have been disobedient, and who are adjudged to require correction or detention.

In these days of liberty of conscience and freedom of speech, it may safely be said that crime is folly, and that it is not the

outgrowth of conscientious consideration by rational and well-disposed persons. Those whose acts are most tinged with folly, are usually the most foolish. The contest against crime is met by unorganized and largely unorganizable forces, which are more marked by incompetency, degeneracy, and regardlessness, than by aggressiveness. Crime is committed by men who are descending, and not by those who are rising. Felons in confinement are mostly unskilled in industrial handicraft, or in any other substantial or useful occupation. They grade low in the school of letters. Their moral principles are largely unreinforced by moral instruction, and are dim and insecure. Their religious affiliations have been severed, or were non-existent. They are untidy in dress and demeanor, unfamiliar with, or unobservant of, the amenities of life, improvident, undisciplined, superficial, ungrateful, selfish and coarse. All along the line there are exceptions. This paper is not designed to deal largely with exceptions. Many men who are not convicts are likewise faulty, and might be considered simply as rather low grade citizens. They are without means, do not value or carry letters of recommendation, and cannot honestly show prior good character and record.

In the courts where charges were preferred against them, none of these things were presumed, but rather the contrary. They were protected beyond their worth, by presumption and exemption which caused the release of many other men no more guiltless than themselves, and they know it. They have a higher appreciation of the maxim that it is better that ninety-nine guilty men should escape, than that one innocent man should suffer, than they have of the fact that when ninety-nine guilty men do escape, more than one innocent man must suffer. Their home ties are largely broken, by death or otherwise, and they insist strongly on what they believe to be their rights, while disregarding the rights of others. Their oblique conduct, or the prospect of it, might have been early forecast by one familiar with them. Tests which are now coming into fairly common use among advanced penologists, indicate that many of them, through retarded development, or congenital deficiency, are children in

mentality, and must so remain to the end. Satisfactory tests of moral equipment and tendency will no doubt ultimately come into practical utility. This field now invites the student.

On the other side of the picture it may be said that many felons are cheerful and obliging, with good intentions, and a desire to improve. Some of them are industrious when at work under favorable and respected direction. Some, when sober, are good men in almost every regard, and others are pleasing and likeable when not angry or irritated. Fidelity will be found among them to an unexpected degree, and so will others of the high virtues, as well as the commendable traits that dignify men above their average fellows, particularly among men who commit assaults upon other men. Some of them are so much like persons we know and esteem, that the court record discloses almost the only difference.

This is written to indicate that the only classification to which convicts can be properly assigned, must be based on their understood individuality, and there must be numerous classes, or none at all. Let there be none. The men with whom we deal have been arrested on the complaint of some person who has felt aggrieved by their conduct, and against whom they themselves often feel a grievance, or more rarely, upon the initiative of a peace officer, which is much better in its effect. They have been confined, idle, and without opportunity for physical exercise even, in an unfit jail, for perhaps a length of time sufficient to debilitate them, and with associations that tend to demoralize. They have seen the prosecuting attorney in court, not as a friend, or one having an interest in their future, as is the case in juvenile courts with the youth unrepresented by counsel, but, to them apparently hostile to what they deem to be their best interests, and in some instances, have believed the question of their disposition to result in a contest between rival members of the Bar, contending for public approval and reputation, and they experience little gratitude for the efforts of their own attorney, and small respect for any lawyers. They are much displeased and disappointed, when their counsel loses on a technical defense, and wish to argue the matter with all comers. Discountenanced,

whipped, and without courage, but more or less desperate in soul, they pass before the court for sentence. The judge is a stranger to them, but no more than they are strange and strangers to him. They have been proven to have committed a certain act at a certain place on one of the hours of one of the ten thousand days of their lives. That is all that is necessary. Often that is all that is shown or known. Each man of them has given a name, but names are easy to give. I venture to say that, in some cases, if two prisoners should exchange names at the right time, and insist upon it, they might easily exchange sentences and imprisonment, so little is sometimes known of their identity; and the criminal population seems to come more and more from the vagrant. Possibly it is more accurate to say that criminals are more and more inclined to travel, with the improvement in means for transportation. The prisoner's statement can be taken by the court, if the prisoner feels disposed to make it. The word of a convicted and unknown man is not very good when he comes before the court for sentence. If he makes a statement he is not likely to color the facts to his own disadvantage, and the court, having no opportunity for verifying the truth, or establishing the falsity, of what he says, must judge him more by the manner of his speech, than by its substance. This is often the condition of things when the court approaches his unscientific duty. He is about to sentence for a fixed length of time, to an institution with which he may be unfamiliar, a man whom he does not know, and upon whom the effect of the prison régime cannot be told in advance. The sentence is imposed "as punishment for the crime of which he stands convicted," and is to "hard labor." Though many judges may take the opportunity to counsel the defendant at this time, it is not a part of the formal requirements to hold out to him that society has any interest in him, except to cause him to suffer for what he has done, and it is the understanding that his labor shall be hard, whatever the quality of his food or bed may be, or his condition of health or strength. He goes from the court feeling that he has left no friends behind, and need not expect to meet any when he is registered in, and numbered at the prison. He thinks his con-

viction a greater misfortune to him than his criminality, and his friends, if he has any, and the public at large, seem to feel the same. The good and learned man upon the Bench unconsciously feels that this is the part of his work which is unskillful, and that he likes the least, but, being a part of his work, and being required by law to be performed, he, as a faithful servant, performs it, as his predecessors in office did before him, as well as he can, and hopes for the best, and he experiences a sense of relief when he turns to the civil calendar.

I am sure that there are many men in this presence who have sat upon the Bench and pronounced sentences, who would have been glad to have told the unfortunates, that, for their correction and welfare, as well as for the interests of society, they would be committed to the custody of a commission of experienced and thoughtful men, who would so order the matter that such necessary detention as they were to undergo, would be in the place, or places, best suited to their needs and capabilities, where they would have ample opportunity to improve themselves in every proper regard, and every incentive to avail themselves of their opportunity; and that as soon as, and not before, they should make an affirmative showing entitling them to partial liberty on parole, they should have it, and go out to honorable employment.

If there is a trial judge or ex-judge in attendance upon these sessions, who feels satisfied with the procedure under which he has acted, prior to the coming in of the indeterminate sentence law, it is my hope that he will not fail to express himself to that effect at an opportune time, before we return to our homes. This is not a challenge, but a request. Heretofore in distinguished assemblages, but perhaps none more distinguished than this, no apologist has declared himself, though many have questioned the wisdom or feasibility of the substitute procedure already referred to.

At the organization meeting of this Institute in Chicago, I had the honor of presenting for consideration a theme embracing a method of procedure which I now submit, but more fully, to your consideration.

The judges and lawyers are experts in determining an accomplished fact. No other persons are equally skillful in that regard. The work therefore of determining whether or not an unlawful act, involving serious moral turpitude, has been committed, and, if so, by whom, must necessarily be left to the courts, and the court's officers, as it always has been. When the commission of the wrong, and the identity of the wrong-doer have been established, nothing should remain for the court to do, but to commit the defendant to the custody of a commission, charged with full responsibility for his care and custody, until his final release from the jurisdiction of the state. One exception should be here noted, based on the fact that imprisonment is an artificial and abnormal condition, and that, *per se*, it is not good. It should be resorted to, and is justified, only when necessary, and to be preferred to the continued liberty of the delinquent. Therefore, when an application is made for probationary liberty, before commitment, the court should hear and cautiously determine the matter, but, when a determination has been reached adverse to the applicant, the work of the judiciary should be closed, with the passing of the defendant into the custody of the commission. Under this system the defense of insanity would not be heard in court, nor the fact of mental irresponsibility. Such matters would be quite immaterial at the trial, and would be considered at a later date by public servants, charged with a peculiar and continuing duty and responsibility in that connection, and equipped with all facilities for deliberately determining the subject's condition. The fact that the crime had been committed by him, and that it was necessary to the interests of the public that he be restrained of his liberty, to the end that he could not repeat his wrongs, would be as far as the court would go with him.

Whether a man is dangerous because he is insane, or intoxicated, or whether, being sane and sober, he is dangerous because he is vicious, makes him an equally undesirable man to be at liberty, and equally calls for his restraint; the only difference being in the place to which he should be committed, and the treatment that should be given him. The penal institutions should be for the care and treatment of acute cases only, while a

custodian asylum should be for the chronic offenders, who have demonstrated their incapacity or viciousness, or their corrupting influence, and for those in whose future no prospect of good citizenship can be discerned. That there are many such persons every warden knows.

Commitment to the custodial asylum would not be tantamount to life imprisonment, but it would continue until such time as a change might come, when a transfer might be ordered, or liberty within severe or easy limitations, or even an absolute release, might be determined to be best. This part of the work can be better performed by the commission than by the court, for the court must act promptly, and on limited data, and in the way of prophecy, while the commission would place the person under observation and examination, and dispose of him as seemed best, having full power to transfer him from one institution to another, as his changing condition, or the judgment of the commission, might indicate to be proper.

This plan, at its best, would do away with minimum and maximum terms of imprisonment or treatment, and would mean the application of good sense in dealing with the anti-social and non-social. Then no person would be kept in detention unless a good purpose would be served thereby, and no person, properly imprisoned, would be released except for reasons which would appeal to the minds of well-informed men; for it will be understood that the commission would be made up of the best available men, and that they should devote their entire time to their official duties.

To be properly equipped for service the state should provide a receiving station, to which would be taken all convicted felons, who were not placed on probation (and many misdemeanants also), in the care of officers appointed by the commission. Many persons thus received could be assigned, without much doubt or delay, to the prison, the reformatory, the school for feeble-minded, the industrial or training school, the state farm for inebriates, the colony for epileptics, the hospital for the acute insane, or to the state custodial asylum—an institution which every state should have, and which should, in time, have a larger

population than both the prison and the reformatory. Recidivists in misdemeanors should be decreed to be felons, and should be saved so far as possible, from the consequences which follow their weaknesses. No more would we then read, in the report of a county work-house, that more than three hundred persons had each served more than fifty terms therein, for no sane and competent person will serve repeated terms in a workhouse or jail, and repeated convictions should be accepted as very strong evidence of helplessness, and conclusive evidence that the person needs attention and aid. Border line cases between badness and madness, or between weakness and viciousness, could be longer detained at the receiving station, for observation sufficient to prevent serious misfits at any of the other state institutions, but the more extended work of observation and inquiry should be continued in each case after the delinquent has been assigned to one of the special state institutions.

A normal person, who has been convicted of crime, and who refuses to establish his identity, after he has had time to learn that the authorities wish to serve as his friend, is invariably one whose record has not been clear, and will not bring him credit. Such a person is entitled to no special favor. With the removal of the maximum term, and the substitution of the so-called indefinite term, and with a firm stand against any parole to unknown persons, he would make the necessary disclosure, unless he feared a transfer to a jurisdiction where his status would be still more unpleasant. With the maximum term of five years, hardly one per cent of reformatory inmates will now hold their secret, if proper means are taken to deservedly win their confidence. When identity has been established, and the life history, more or less truthful, has been entered in the record, a basis has been laid upon which to build the full story. Repeated interviews, will, in some cases, be necessary, and much correspondence must ensue, and perhaps some visits must be made, but, in the end, the man will be known to the authorities, for while this work has been going on, the institution physician, psychologist, teacher, chaplain, and keeper, have been getting acquainted with him in their several capacities, and submitting helpful reports from time to time.

The commission will make mistakes in their original assignments, but these can be readily corrected by a transfer. Men in one institution will advance or retrograde, so that they may more properly be placed in another, but this fact would not constitute a problem, as it now does in so many states.

As one who has spent more than twelve years in direct dealings with delinquents (an exhausting work from which he expects soon to retire), and who has learned the backwardness of the art of penology, and who has some appreciation of the miseries of the wrong-doer, and of the rights of society, I freely declare that the result of my observation and reflection as an officer of the court, and as a warden, is, that some system akin to what is outlined above, is the only thing that seems to me to promise well in the matter of terminating the active career of the professional criminal, discouraging the coming of foreign criminals, properly disposing of recidivists, paranoiacs, and other corrupting and menacing incompetents, and doing justice, and giving necessary aid and encouragement to those who appear to carry a credit of virtue or merit above what may be charged against them.

It has been urged that this plan is revolutionary, and that its adoption and enforcement will meet with constitutional obstacles: Let it be admitted that it is revolutionary, but, at the same time, let it be proclaimed that the present system is not a success, and that we are looking for better things. When constitutional questions arise they must be dealt with in the different jurisdictions. They are not for discussion today. In some states they may be readily overcome, and in other states more pains and patience will be required. Movements of this kind are not quickly brought to a consummation. Another objection is that the judges have been men of such quality that the people repose singular trust in the integrity and ability of the courts, and would not be content to have the powers of a commission exercised by others than judges. This difficulty, which may be more apparent than real, could be met by a provision that the members of the commission, or some of them, should be appointed from the judicial officers, with a salary which, together with the importance of their new work, would make the service attractive to

those whose humanitarianism is peculiarly controlling. As a matter of fact, the proposed plan, to some extent is now in operation, though the commission may bear a name not clearly indicating its duty and authority, and though it operates under needless and awkward limitations, and is generally made up of men who are charged with too much other work to permit them to give the personal attention and service to their wards, that would accomplish the most good.

These are the days, and this is the organization, in and by which improvement and progress should come, but if we allow ourselves to be diverted from the open path, another generation may come and go, before the necessary hard and discredited methods of our grandfathers' time, shall cease to impose the needless loss of men and substance upon the state.

Joseph B. David, of Chicago, presented a resolution upon the subject of furnishing information as to jury panel, witnesses, *et cetera*, to persons indicted for criminal offenses. The resolution was referred to the Committee on Resolutions to be appointed thereafter.

The President then proceeded to the regular order of business. A report of Committee G of the Institute on Crime and Immigration, Gino C. Speranza, of New York, Chairman, was then presented. In the absence of Mr. Speranza this report was not read and the meeting proceeded immediately to the discussion of Mr. Randall's paper and the report of Committee G. The discussion was participated in by C. W. Bowron, of Wisconsin; Judge Orrin N. Carter, of Illinois; Judge William N. Gemmill, of Illinois; Judge Charles A. DeCourcy, of Massachusetts, and others.

The questions as to the organization of courts raised in the address of Mr. Randall, were, upon motion of William E. Higgins, of Kansas, referred to appropriate committees to be designated later.

Upon motion of Nathan William MacChesney, the report of Committee G was accepted and referred to the Executive Board with power to re-refer it to such committee as it might deem

advisable, and that Committee G be continued with instructions to investigate the subject of the three inquiries which the committee raises in its report.

"First: Do existing treaty provisions, directly or by implication and interpretation, sufficiently protect the alien's rights and remedies in the United States? . . .

"Second: Do existing legal provisions, either in our statutes or in our treaties, sufficiently protect the United States from alien criminals? . . .

"Third: Advisability of settling the status of the immigrant by international agreement."

The President then appointed the following committees: Nominating Committee: Nathan William MacChesney, of Illinois; William N. Gemmill, of Illinois; Edwin M. Abbott, of Pennsylvania; Robert H. Gault, of Illinois, and E. Ray Stevens, of Wisconsin. Committee on Resolutions: Charles A. DeCourcy, of Massachusetts; William E. Higgins, of Kansas; C. A. Harker, of Illinois; Chester A. Fowler, of Wisconsin, and Wm. R. Vance, of Minnesota. The meeting then adjourned.

SECOND SESSION.

The Institute met at 9.45 on Friday morning, August 30.

This session being a meeting of the Wisconsin Branch of the Institute was presided over by Alexander H. Reid, of Wausau, Wisconsin, President of the Branch.

The President read his annual address.

Committee A of the Wisconsin Branch, C. B. Bird, of Wausau, Wisconsin, presented a report upon the question of the formulation of amendments to the laws relating to the taking of exceptions to the charge of the trial judge. John B. Sanborn, of Madison, Wisconsin, presented a report of Committee C of the Wisconsin Branch upon the subject of the Organization of Courts. The special report on the Office of District Attorney prepared by Mr. Rosenberry, of Wausau, Wisconsin, a member of Committee A of the Wisconsin Branch, was then presented. The meeting then adjourned.

At 12 o'clock there was a luncheon at the Hotel Pfister. Chief Justice John B. Winslow, of Wisconsin, presided. Brief ad-

dresses were made by Judge DeCourcy, Judge Joseph G. Donnelly, of Milwaukee, H. J. Desmond, of Milwaukee, and Prof. Wm. E. Higgins, of Kansas.

THIRD SESSION.

The Institute re-convened at 3.00 P. M. Friday afternoon, August 30. Chief Justice Winslow presided.

Judge A. C. Backus of the Municipal Court of Milwaukee addressed the Institute upon the subject of the probation law in Wisconsin and stated his experiences in its administration. Among other things, he said that he had been on the Bench a little over two years and during that time had placed on probation over 300 persons who had committed state's prison offenses, and of this number but eight had been returned to the court for violation of the probation law, or by reason of the commission of another offense. The address of Judge Backus was discussed at length, and Judge W. M. Gemmill, of Illinois, took exception to some of the conclusions of Judge Backus.

The next business was the report of Committee F of the Institute, on Indeterminate Sentence and Release on Parole, read by the Chairman, Edwin M. Abbott, of Pennsylvania. There was an appendix to his report in which the existing laws, both national and state, relating to indeterminate sentence and release on parole, were briefly stated.

A special report on the indeterminate sentence prepared by Herman Grotphorst as a sub-committee of Committee G of the Wisconsin Branch on the subject of the indeterminate sentence, together with the appendix containing the report of Prof. Eugene A. Gilmore, of Madison, Wisconsin, was then presented.

The President stated that the subsequent meetings of the Institute would be held in the Court Room of Judge W. J. Turner in the Masonic Temple, corner Jefferson and Oneida streets. The meeting then adjourned.

FOURTH SESSION.

The Institute met at 8 o'clock Friday evening, August 30. Judge Alexander H. Reid, of Wausau, Wisconsin, President of the Wisconsin Branch, presided.

The report of Committee D of the Wisconsin Branch on the Sterilization of Criminals and Defectives, was read by Dr. W. A. Wilmarth, Chairman. The report was discussed at length by Nathan William MacChesney; Judge Gemmill; Elmore T. Elver, of Madison, Wisconsin, and others. The next matter was the report of Committee F of the Wisconsin Branch, on the subject of Compensation to Dependents of Convicts, read by Arthur F. Belitz, of Madison, Wisconsin. The special report on Prison Labor, prepared by Dr. E. Stagg Whitin, of New York, Secretary of the National Committee on Prison Labor, for Committee F of the Wisconsin Branch was then presented. A report of Committee I of the Wisconsin Branch, on the Treatment of Recidivists, was presented by R. E. Smith, of Merrill, Wisconsin. Attached to the report as an exhibit was a proposed habitual criminal act. The meeting then adjourned.

FIFTH SESSION.

The Institute met in Judge Turner's Court Room at 9.30 A. M. on Saturday, August 31. Chief Justice Winslow presided. The report of Committee A of the Institute, on a System for Recording Data concerning Criminality, was presented by Prof. R. H. Gault, of Illinois, in the absence of the Chairman, Judge Olson, of Illinois.

The report of Committee No. 3 of the Institute, on Criminal Statistics, was then presented.

The report of Committee E of the Institute, on Criminal Procedure, was then presented by Judge W. N. Gemmill, of Illinois, Chairman. Appended to the report is a dissent by Prof. Higgins from recommendations two and four of the committee.

The recommendations of the committee are as follows:

1st. "That such legislation be had in the several states as will secure the right of every state to prosecute those accused of crimes either upon information or indictment, and the committee urges that where the method of prosecution by indictment is retained, provision should be made in the law for substantial amendments to such indictments, wherever such amendments can be made in the interests of justice."

2d. "That such legislation be had as will give to the trial judge the right to charge juries orally and to limit exceptions to such to the specific objections made by counsel at the time of the charge, in the presence of the jury and before it has retired from the bar."

3d. "That such legislation be enacted in the several states as shall limit the right of appeal to such defendants as shall secure from the trial judge a certificate reciting that the cause is one which contains some doubtful or uncertain question of law or fact, or that for some other reason it is one which should be reviewed by the court of appeal. Failing to secure such certificate such defendant should then apply to the court of review for the right to appeal, and such court shall grant such appeal only when it shall be of the opinion that the case is one where an injustice has been done."

4th. "That not only should courts of criminal appeal have the power to reduce or increase penalties without reversing causes, where in their judgment such a course is proper, but likewise have the power to set aside the judgment and sentence of the court and pass such other sentence as is warranted by the evidence, having due regard for the rights of all parties involved."

5th. "That such legislation be enacted as will give to courts of review the power to examine the accused under oath and to hear the evidence of such other witnesses offered on behalf of appellant as the court may elect."

6th. "The enactment of such legislation as will give to both sides, in a habeas corpus proceeding, the right to apply to an appellate court for a review of the judgment, either by appeal, writ of error, certiorari, exceptions, or by a certification of questions of law."

The report of Committee B of the Wisconsin Branch, on the Testimony of Non-residents and Incriminating Evidence, was then received, also the report of Committee E of the Wisconsin Branch, on Affidavits of Prejudice.

The report of Committee No. 4 of the Institute on State Societies and Membership was received.

Upon the motion of Judge DeCourcy, on behalf of the Committee on Resolutions, it was unanimously resolved that the resolution of Mr. David be referred to the new Executive Committee for their consideration or recommendation.

The Secretary then presented his report which showed that

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the Institute has a membership of 434. The report of the Treasurer was then presented.

The report of the Managing Editor of the Journal, Prof. Robert H. Gault, of Illinois, was received. The report of Frederic B. Crossley, Managing Director of the Journal, showed that the Journal has nearly 1200 subscribers.

The Committee on Nominations presented the following report:

"Your Committee on Nominations begs leave to recommend the following persons as officers and members of the Executive Board of the Institute for the ensuing year:

OFFICERS OF THE INSTITUTE, 1912-1913.

President.

ORRIN N. CARTER, Chicago, Ill., Justice of the Supreme Court of Illinois.

Vice-Presidents.

CHARLES A. DECOURCY, Lawrence, Mass., Justice of the Supreme Judicial Court.

FRANK L. RANDALL, St. Cloud, Minn., General Superintendent State Reformatory.

CHARLES R. HENDERSON, Chicago, Ill., Member for the United States of the International Prison Commission; former President International Prison Congress; Professor of Sociology, University of Chicago.

ROBERT W. MCCLAUGHRY, Fort Leavenworth, Kan., Warden of the Federal Penitentiary.

JANE ADDAMS, Chicago, Ill., Head of Hull House.

Treasurer.

BRONSON WINTHROP, New York, N. Y., of the New York Bar.

Secretary.

EUGENE A. GILMORE, Madison, Wis., Professor of Law, University of Wisconsin.

Executive Board.

JOHN B. WINSLOW, Madison, Wis., Chief Justice of the Supreme Court, *ex-officio*.

For three-year term, expiring 1915:

WILLIAM N. GEMMILL, Chicago, Ill., Judge of the Municipal Court of Chicago.

EDWARD J. McDERMOTT, Louisville, Ky., of the Kentucky Bar, Lieutenant-Governor of Kentucky.

GEORGE W. KIRCHWEY, New York, N. Y., Professor of Law, Columbia University, President New York Society of Criminal Law and Criminology.

EDWIN M. ABBOTT, Philadelphia, Pa., of the Philadelphia Bar, Chairman Executive Council, Pennsylvania State Society of Criminal Law and Criminology."

Upon motion of Judge Reid the report was adopted and the nominees unanimously elected.

Judge Carter made a brief address of acceptance.

The Committee on Resolutions made a further report tendering the thanks of the Institute to Frank L. Randall for his address, to Dr. E. Stagg Whitin for his special report on Prison Labor, to the Milwaukee Committee of Arrangements, to Judge Backus, and to Judge Turner. The thanks of the Institute were extended to the President for his efficient work during the past year.

There being no further business the Institute adjourned *sine die*.

EUGENE A. GILMORE, *Secretary*.

CANONS OF ETHICS.

[NOTE.—The following Canons of Professional Ethics were adopted by the American Bar Association at its thirty-first annual meeting at Seattle, Washington, on August 27, 1908, and they are reproduced in the present volume pursuant to the resolution of the Association. See A. B. A. Reports, Vol. XXXIII, pages 86 and 572.]

I.

PREAMBLE.

In America, where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the republic, to a great extent, depends upon our maintenance of justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

II.

THE CANONS OF ETHICS.

No code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the American Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. *The Duty of the Lawyer to the Courts.*—It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being

wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. *The Selection of Judges.*—It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. *Attempts to Exert Personal Influence on the Court.*—Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. *When Counsel for an Indigent Prisoner.*—A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. *The Defense or Prosecution of Those Accused of Crime.*—It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. *Adverse Influences and Conflicting Interests.*—It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. *Professional Colleagues and Conflicts of Opinion.*—A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer, are unworthy of those who should be brethren at the Bar; but, nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. *Advising Upon the Merits of a Client's Cause.*—A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The

miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. *Negotiations with Opposite Party.*—A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. *Acquiring Interest in Litigation.*—The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. *Dealing with Trust Property.*—Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. *Fixing the Amount of the Fee.*—In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is

controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. *Contingent Fees.*—Contingent fees, where sanctioned by law, should be under the supervision of the Court, in order that clients may be protected from unjust charges.

14. *Suing a Client for a Fee.*—Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. *How Far a Lawyer May Go in Supporting a Client's Cause.*—Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties, than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicanery. He must obey his own conscience and not that of his client.

16. *Restraining Clients from Improprieties.*—A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. *Ill Feeling and Personalities Between Advocates.*—Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. *Treatment of Witnesses and Litigants.*—A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. *Appearance of Lawyer as Witness for His Client.*—When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in Court in behalf of his client.

20. *Newspaper Discussion of Pending Litigation.*—Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the Court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. *Punctuality and Expedition.*—It is the duty of the lawyer not only to his client, but also to the Courts and to the public, to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. *Candor and Fairness.*—The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a

text-book; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the Court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. *Attitude Toward Jury.*—All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. *Right of Lawyer to Control the Incidents of the Trial.*—As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. *Taking Technical Advantage of Opposite Counsel; Agreements with Him.*—A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as

possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. *Professional Advocacy Other Than Before Courts.*—A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. *Advertising, Direct or Indirect.*—The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. *Stirring up Litigation, Directly or Through Agents.*—It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay

or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital *attachés* or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. *Upholding the Honor of the Profession.*—Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. *Justifiable and Unjustifiable Litigations.*—The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. *Responsibility for Litigation.*—No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. *The Lawyer's Duty in Its Last Analysis.*—No client, corporate or individual, however powerful, nor any cause, civil or political,

however important, is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

III.

OATH OF ADMISSION.

The general principles which should ever control the lawyer in the practice of his profession are clearly set forth in the following Oath of Admission to the Bar, formulated upon that in use in the State of Washington, and which conforms in its main outlines to the "duties" of lawyers as defined by statutory enactments in that and many other states of the union *—duties which they are sworn on admission to obey and for the wilful violation of which disbarment is provided:

I DO SOLEMNLY SWEAR:

I will support the Constitution of the United States and the Constitution of the State of;

I will maintain the respect due to Courts of Justice and judicial officers;

* Alabama, California, Georgia, Idaho, Indiana, Iowa, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wisconsin. The oaths administered on admission to the Bar in all the other States require the observance of the highest moral principle in the practice of the profession, but the duties of the lawyers are not as specifically defined by law as in the States named.

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the Judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval:

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD.

We commend this form of oath for adoption by the proper authorities in all the states and territories.

NOTICE AS TO REPORTS.

By order of the Executive Committee, the following prices have been fixed for the reports, which are about sufficient to pay the cost of printing and postage. The earlier volumes are in bad condition. Only *paper* bound volumes for the years 1878 to 1895 inclusive can be furnished. From and after 1896, both paper and cloth bound volumes can be furnished and preference should be indicated when ordering.

- Vol. 1 (1878), postpaid, paper, 50 cents.
- Vols. 2 to 18 (1879 to 1895), postpaid, paper, 75 cents.
- Vols. 19 to 26 (1896 to 1903), postpaid, paper, 75 cents; cloth, \$1.00.
- Vols. 27 and 28 (1904 and 1905), postpaid, paper, \$1.00; cloth, \$1.25.
- Vol. 29 (1906, Part 1) (American Bar Association Proceedings, only), postpaid, paper, 75 cents; cloth, \$1.00.
- Vol. 30 (1906, Part 2) (Proceedings of Sections, Association of American Law Schools, Uniform State Laws), postpaid, paper, 50 cents; cloth, 75 cents.
- Vol. 31 (1907), postpaid, paper, \$1.00; cloth, \$1.25.
- Vol. 32 (Sharswood's Ethics) will not be sold, but will be furnished without charge, if requested, with Vol. 31, as long as the supply lasts.
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- Vol. 37 (1912), postpaid, paper, \$1.00; cloth, \$1.25.

Each member of the Association will receive, as soon as published, and without cost to him, one copy of the proceedings for each year of his membership; a cloth-bound copy will be sent, unless otherwise directed. Members desiring extra copies, and new members desiring back reports, will be charged the above prices.

The reports will be published each year about December 1.

Application may be made to

GEORGE WHITELOCK, *Secretary*,
W. THOMAS KEMP, *Asst. Secy.*,
1408 Continental Building, Baltimore, Md.
(1235)



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